

THE SITUATION OF MONEY LAUNDERING IN THE REPUBLIC OF NORTH MACEDONIA

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Abstract

This paper should prove that the phenomenon of money-laundering commonly is defined as covert, sophisticated and profitable criminal activity, whose offenders are commonly and explicitly intelligent people and always a step-ahead before the services responsible for their detection. In the work of this paper I have directed that changes in social, political and economic system contributes to dealing with real situations that as a country in transition it brings predispositions to expand money laundering in the Republic of North Macedonia and link this crime with organized crime by violates the basic tenets of the rule of law. Then, there are created serious problems in detecting and preventing the perpetrators of this crime and clarification of such a crime. New techniques that shows this type of crime are evident in the structure of offenses and offenders to turn illegal proceeds into legitimate proceeds and thus impose the need for continuous monitoring and improvement of methods for its detection. In our country, building an effective system for combating money laundering show continuous improvement and development of the capacities of all the institutions involved in the system.

Keywords: *money-laundering, illegal profits,proceeds of crime,prevention, detection, freezing, confiscation, organized crime, corruption.*

INTRODUCTION

From the existence of the world to this day, one of the most basic motives of the people is to gain economic advantage, so to say that by committing crimes the purpose of people is to secure capital inflow or wealth acquisition. Particularly in recent years, uncontrolled and excessively capitalist goals and motives, has reached the dimensions and motives of people with legal activities as much as possible to make money and become rich,

and thus people does not satisfy and as a result applies to organized crime groups for the purpose of financial gain.

In the pursuit of his motives, people transcend the boundaries of the legal acquisition of wealth and enters the borders of the illegal, forbidden by the conviction that he will not be discovered and sanctioned. Unfortunately, for many, earning and improving their standard of living is linked to criminal activities that make easy prey and financial results with little to no effort. The easiest way to gain wealth is through criminal behavior by perpetrators who are likely to perform a particular social or public function, or use their positions of power and affiliation with criminal structures to increase personal and family wealth.¹The international community in the late eighties of the last century, recognized money laundering as a threat to democracy, human rights and the rule of law, which are the core values of modern democratic states. As a threatening phenomenon, money laundering is expanding its dimensions using the intensive processes of globalization, technological transformation and European integration.

Republic of North Macedonia has been involved in global anti-money laundering and prevention activities with the ratification of the Vienna Convention², the Strasbourg Convention on Laundering, Detection, Freezing and Confiscation of Proceeds of Crime, as well as with the ratification of the Warsaw Convention international documents have not yet been fully implemented in national legislation. The wider social action, and full integration into the general international aspirations for globalization and linking prevention and combating organized crime and money laundering activities, requires the study and analysis of the situation in the Republic of North Macedonia. For such an analysis should be the analysis of social, economic and political assumptions and conditions. The development of political pluralism, the building of democracy and the transition to a market economy, while simultaneously changing ownership in the current transition period, took place in the absence of appropriate legal regulation.

¹ Gilmore.W., 1997, Dirty money, The evaluation on money laundering Counter-measures-Council of Europe Press.

² By 1998 the 148 countries had ratified the Vienna Convention, and the Republic of North Macedonia was ratified in October 1993. Article 8 of the Vienna Convention provides for all forms of assistance which means an opportunity for immediate inter-police cooperation, which does not involve any form of coercion.

Analyzes of the situation in the field of crime indicate an increase in the level of danger from organized crime, primarily from illicit drug trafficking, illegal arms trafficking, smuggling as well as trafficking in women. In the area of economic and financial criminality, the most widespread are financial frauds with huge financial gains, which are obtained by illegal financial criminality. The crime of money laundering, especially in recent years, has gained worldwide prominence, illegally obtained benefits are considered legal and, therefore, legislation addressing money laundering has been adopted to prevent money laundering laws. to establish a quality regime for combating money laundering and our country ended with the adoption of the **(Law on Prevention of Money Laundering published in the Official Gazette of the Republic of North Macedonia No.70 / 01 of 5 September 2001)**. Perhaps this concept is as old as human history gaining benefits from illegal activities, that is to say today "money laundering and other proceeds of crime," whereby the proceeds in these ways reach enormous proportions, which cannot be disclosed, and even in one published magazine, The Economist, it was mentioned that "unless discovery measures are taken this offense in 2020 means that money laundering and other proceeds of crime will be vastly expanded worldwide.

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The situation with money laundering in the Republic of North Macedonia, which changes in the social and political system, contributes to the growth of this phenomenon in our area and as a country in transition brings predispositions for organized crime related to money laundering. Money laundering in the Republic of North Macedonia is on the rise along with other crimes in the field of economic crime, the increase is confirmed by the increasing number of detected criminal offenses in the area of organized crime and economic crime, using new techniques of functioning of this crime with intended to turn illegal proceeds into legal. Inadequate prevention of the crime of money laundering and insufficient efficiency of the competent intelligence authorities is spreading this phenomenon on a large scale.

Many scientific, expert and political controversies have arisen over the question of whether there is organized crime in the Republic of North Macedonia whose ultimate goal is to achieve high illegal profits. Numerous scientific meetings have been organized on this topic, most of them in cooperation with international experts. The presented situation in the countries with developed democracy, compared to the analysis of the situation in the Republic of North Macedonia, contributed to overcoming the state of astonishment and surprise from such a question and to the existence of this international phenomenon and the territory of the Republic of North Macedonia as a transitional country for organized crime.³ Specific factors and causes of crime are as follows: changes in the social and political system brought about by the presence of fraud, corruption, blackmail, threats, etc.; changes in the political system within which a new political structure has been created, with strong personal interests; underdeveloped legislation affecting the increase in crime and resulting from disorganization in the functioning of the bodies responsible for its prevention and suppression. All of these conditions as criminogenic factors affect the occurrence of crime. This undermines legal, political, social and economic security.

According to Prof. Vlado Kambovski,⁴ the knowledge that there is organized crime in our country relies on a number of general and specific, indirect and immediate indicators, which should be focused on the scientific interest, among which he particularly distinguishes: indicators of the movement of crime, new forms of crime; financial and economic indicators; paid customs duties; financing of political parties and similar. During the transition period, the restructuring of the economy from contracting to market for offenses against the economy has decreased for both registered and convicted persons,⁵ this is an indicator of the weakening of effective criminal protection. With the emergence of a new class of people whose material, economic, and social status has changed, it has imposed itself on the reasons for the lack of appropriate response. Apart from accepting the objective weaknesses and difficulties arising from the transition process and the lack of knowledge of

³ Тасева, С., 2003, Перење пари, ДатаПонс, Скопје, стр.157

⁴ Проф.д-р. Камбовски.В., 1996, Правната држава и организираниот криминал МРКК бр.1-2 .

⁵ According to statistical indicators of the crime of the Ministry of Interior.

the problems, it may lead us to face a state of conscious acceptance, which creates conditions for corruption and paves the way for the underground economy, which tends to dominate overall economic and political activities.⁶ This raises the growing concern about the additional social dangers of money laundering, stemming from investing significant profits from crime in the legal economy, thus enhancing the economic power of criminal organizations and their power to control.

In the Republic of North Macedonia, it also faced the problem of the origin of the funds, with which some of those funds represent criminal proceeds obtained through various criminal activities within the country. This also continues non-transparent privatizations, the acquisition of banks and factories by persons close to the governing structures or other excise goods. All of these activities are related to illegal financial transactions that remain undiscovered, with criminal proceeds not being deducted due to the fact that the perpetrators were not discovered, the question arises: Why is crime allowed to be the most payable craft in the Republic of North Macedonia?

The existence of a variety of reasons and interests - both objective (situation in the region, embargo, etc.) and subjective (the interests of individuals in the governing structures of the ruling political parties for personal enrichment, strengthening the financial and political power of the ruling parties), it has long been avoided creating a quality legal framework for the prevention and suppression of modern forms of crime, including organized crime of all kinds, financial fraud, money laundering and corruption. This situation has also contributed to avoiding the creation of specialized and well-equipped services for the effective prevention and fight against crime.

In addition to the relevant data indicating the present situation in the field of crime and the concentration of financial power of individuals, sufficient adequate measures have not yet been taken to create a legal framework but also to effectively use the existing one in order to deter criminals from criminal proceeds. This creates conditions for the expansion of criminal activities, corruption and endangering democracy and the rule of law, as well as money laundering and the incorporation of illegal proceeds into legal financial flows. **In**

⁶ According to statistical indicators of the crime of the Ministry of Interior.

2005, the Government of the Republic of North Macedonia adopted a National Strategy for Combating Money Laundering and Financing of Terrorism⁷, prepared by the Administration, which indicated the existence of political will for the competent institutions to coordinate effectively against the threats of financial crime and to direct the development of what the state should consider how to organize institutions and how to do so to create an effective system for the prevention and repression of organized crime and money laundering, as well as expanding opportunities for effective participation in the international fight against these phenomena. Factors affecting the development of crime based on the analysis of the movement of crime, new forms of crime, as well as indicators in the area of financial and economic sphere, will analyze the situation in the area of money laundering in the Republic of North Macedonia.

CRIMINAL SITUATION AS AN INDICATOR OF THE LEVEL OF MONEY LAUNDERING IN THE REPUBLIC OF NORTH MACEDONIA

The phenomenon of money laundering internationally is often associated with criminal proceeds from illicit drug and weapons trafficking, trafficking in precious and radioactive substances, smuggling of excise goods, organized prostitution, economic crime and financial fraud.⁸ The Criminal Code of the Republic of North Macedonia, which entered into force on 1 November 1996, incorporates the provision criminalizing money laundering and other unlawful gain (**Article 273**), and then, in May 2004, the Criminal Code prepared by the Ministry of Justice. provides for a complete amendment to the statutory provision of (**Article 273**), which should read "money laundering and other proceeds of crime". Under this provision, money laundering may be subject to all proceeds obtained illegally, not just those obtained through illicit drug and weapons trafficking. The main features of criminal proceeds laundering are the acts of organized and transnational crime, its global nature, the flexibility and adaptability of the actions, the use of the latest technological advances and professional assistance, the ingenuity of the actions taken and the sufficient resources at all

⁷ The Government of the Republic of North Macedonia in 2005 adopted the National Strategy for Combating Money Laundering and Financing of Terrorism prepared by the Administration.

⁸ Лажман, Мајкл.Д. и Потер, Гари.В., 2009, Организиран Криминал, Магор, Скопје, стр.211.

times. From the complexity, which is at the very core of this phenomenon, arises the need for complexity in determining the approach to the processing of the money laundering phenomenon within this paper.

Given that, I made an assessment of the real prevalence of money laundering in the Republic of North Macedonia based on the analysis of known empirical data on certain types of crime: illicit drug trafficking, Illicit arms trafficking, crimes in the field of economic and financial criminality, crimes in the area of organized crime, banks and financial institutions, gearboxes and casinos, notaries, lawyers, accountants, establishing companies, institutions,⁹ which are most commonly associated with money laundering internationally and which, because of their high profitability, are important indicators of the degree of endangerment of an area of money laundering. Criminal situations in the Republic of North Macedonia, we have come closer to the most appropriate methods of practice, which in a certain way and under certain conditions could be applied in the creation of the future National Strategy of the Republic of North Macedonia for combating money laundering. Development and coverage of the money laundering situation in the Republic of North Macedonia, in this way the basic postulates of the rule of law are disrupted, these are legal, political, social and economic security.

GENERAL ASSESSMENT OF THE SITUATION OF MONEY LAUNDERING IN THE REPUBLIC OF NORTH MACEDONIA

Based on the above-mentioned conditions of unfavorable development trends in the field of crime and its suppression, which may be supplemented by corruption, as a factor present in all segments of social and economic life and activity, as well as on the basis of the situation in the sphere with the financial and economic performance and the establishment of the institutions for prevention and repression in the area of combating money laundering,

⁹ According to statistical indicators of the crime of the Ministry of Interior. Data from the Office for Prevention of Money Laundering and Financing of Terrorism of the Republic of North Macedonia. Data from the State Statistical Office of the Republic of North Macedonia. The emergence of Organized Crime in the Republic of North Macedonia has been analyzed on the basis of the requirements contained in the 1998 EKOCOK Resolution.

it seems that the Republic of North Macedonia is well on its way to becoming a money launderer. Given the unstable security situation in the country and the region, as well as the level of economic development, in this process banks and the financial system are used to place, transfer and conceal criminal proceeds.¹⁰ The international experience so far indicates that criminals and their criminal activities are moving from regions and countries with well-established legislation and regulation to countries with weak or almost under-built regulation. If such situations in the states are accompanied by the government's reluctance to take concrete action in this regard, the danger of penetrating crime into all spheres of society, and especially in the sphere of finance, is even greater. If the Republic of North Macedonia wants to become a leading country in the area of financial operations, but also in the fight against financial crime in the region, the moment should be seized and the most comprehensive and best steps in creating a quality anti-money laundering regime should be taken as a solid and a sound financial system, the development of the economy, and thus the development of a healthy society.

On the part of the Committee of Experts of the Council of Europe on the situation in the field of combating money laundering in the Republic of North Macedonia, there is a great deal to be done to ensure effective implementation of anti-money laundering measures, also, an adequate legal framework for combating money laundering, that is a structure that meets international standards, needs to be established.¹¹ In order to achieve the goals of building a democratic society based on the rule of law and a market economy in a stable financial system, it is necessary to create a comprehensive, multidisciplinary strategy that encompasses all segments of this problem, such as: the necessary measures and activities that need to be taken to make the system fully operational.

¹⁰ Управа за спречување на перење пари и финансисрање тероризам, 2010, Скопје.

¹¹ CARPO Regional Project 2007, - "Update of the 2006 Situation Report on Organized and Economic Crime in South-eastern Europe", European Commission, Council of Europe, Strasbourg.

NATIONAL STRATEGY FOR PREVENTION OF MONEY LAUNDERING IN THE

REPUBLIC OF NORTH MACEDONIA

Money laundering is often defined as a complex process of concealing illegally acquired property, such as the movement of funds to support acts of terror or other endangerment of life and security are recognized as a global danger that has its negative consequences, both economics and democracy. The effective suppression of money laundering, as a specific form of organized crime whose ultimate aim is to legalize illegally obtained criminal proceeds and their inclusion in legal financial flows, cannot provide one-sided action by reinforcing criminal norms. The basis for establishing an international anti-money laundering regime are the provisions in international documents to be taken at national level. Bearing in mind the international standards and obligations undertaken by the Republic of North Macedonia with their acceptance, the analysis of the situation in the Republic of North Macedonia in terms of the threat of money laundering, and the constitutional commitment to build a democratic society based on the principles of law, the constituent elements of the National Strategy for establishing a quality anti-money laundering strategy should be based on international experience, complemented by specific recommendations on measures and activities that will enable the optimal implementation of international standards and the creation of an efficient system that can respond international requests for co-operation in the field of detection, prosecution and

adjudication, with the ultimate goal of separating criminals from illicit proceeds by confiscation.

Republic of North Macedonia has recognized these problems and has set up and continuously upgrades the system for prevention, control and prevention of money laundering. For the purpose of strengthening the anti-money laundering system, a National Strategy for Combating Money Laundering and Financing of Terrorism was prepared and implemented in the period 2005-2008. As a consequence of the need to program the reform of the system for the prevention of money laundering and financing of terrorism and to overcome its shortcomings, this document has been prepared. The strategy aims to define on the one hand the system for prevention of money laundering, and on the other hand to define and anticipate ways and activities to overcome identified weaknesses and shortcomings. An

effective anti-money laundering system is expected to operate after the implementation of this Strategy.

The National Anti-Money Laundering Strategy is a strategic document that sets out all the elements that enhance the system of prevention of money laundering and financing of terrorism in the Republic of North Macedonia.¹²The models developed for the creation of the National Anti-Money Laundering Strategy contain several elements, but it should be kept in mind that in order to avoid restrictions by the international community, insufficient measures are taken to counter the problem and establish an effective one. A system of protecting one's own country from money laundering, existing models and approaches to national strategy making can be applied in a variety of ways.¹³

Within each of the elements of the National Anti-Money Laundering Strategy in the Republic of North Macedonia, attention should be paid to the specifics of national legislation and institutional set-up, which will allow for the diagnosis of possible weaknesses and recommendations for their elimination. At the national level, the existence of a strategy to combat money laundering and the financing of terrorism points to the existence of political will for the competent institutions to coordinate in the face of threats of financial crime and to plan development. This strategy should contribute to the development of comprehensive action and cooperation between the institutions in the Republic of North Macedonia to effectively tackle the problems caused by money laundering and terrorist financing, as well as to develop a system compatible with the relevant systems of developed countries, in accordance with relevant international standards. instruments and standards.

¹² The following documents are the reference basis for the preparation of this Strategy: National program on the adoption of European Union law; Third Round Evaluation Report on Prevention of Money Laundering and Terrorist Financing Prepared by the Council of Europe's Moneyval Committee of Evaluators; National Strategy for the Prevention of Money Laundering and Financing of Terrorism 2005-2010; The Office for the Prevention of Money Laundering and Financing of Terrorism for 2009-2011; Law on Prevention of Money Laundering and other proceeds from Crime and Financing of Terrorism and other laws relevant to the prevention of money laundering and financing of terrorism.

¹³ Тасева.С, 2003, Перење пари, Дата Понс, Скопје, стр.191.

CONCLUSION

Money laundering may be as old as human history, especially in the last century as it has expanded for states to become more important and threatening in many areas of economic, social, political and judicial structures and therefore without laws to combat it. The research on money laundering in the Republic of North Macedonia and the situation of money laundering in the Republic of North Macedonia the dynamics of its movement have been investigated through data processing and knowledge used by the Office for the Prevention of Money Laundering and Financing of Terrorism, Ministry of Finance, Ministry of Interior, Department of Organized Crime of the Ministry of Interior of the Republic of North Macedonia, Ministry of Justice and State Statistical Office of the Republic of North Macedonia. Due to the lack of interest in this issue, as well as conscious passivity the situation of the system of prevention of money laundering in the Republic of North Macedonia was at an unenviable level.

The analysis of the situation in the Republic of North Macedonia confirmed the following: In the Republic of North Macedonia there is a high degree of danger from organized crime and money laundering; The unfinished legislative and regulatory framework for combating money laundering in the Republic of North Macedonia contributes to making it attractive to money launderers from the country and abroad, as a space where there are all conditions for the smooth operation of the basic money laundering operations; The existing criminal services and agencies are not adequately included in the fight against the phenomenon of money laundering in the Republic of North Macedonia; In the Republic of North Macedonia the system of efficiency of law enforcement authorities is not built in the fight against money laundering.¹⁴ The problem of money laundering in no country in the world does there exist a system that can say that money laundering can be completely prevented. Although today in the Republic of North Macedonia and the world in general there is a huge fight against “money laundering” with the adoption of the necessary laws and legal framework, unfortunately, this phenomenon has not yet been eradicated. On the

¹⁴ In order to establish a quality regime for prevention of money laundering in 2001, the law on prevention of Money Laundering was enacted, but the law on prevention of Money Laundering and other proceeds from crime came into force in 2008, although it sets out the measures and activities to be taken to prevent money laundering, there is still insufficiently established legal framework.

contrary, the impact of money laundering and inflows is increasing day by day and poses a danger to all segments of social life.

P.S. "Profit as a motive will always be at the heart of organized crime"!

References

Арнаудовски, Љ - Дали кај нас постои организиран криминлитет? Безбедност бр.3/94

Батковски, Т - Перење пари - криминолошко-криминалистички аспекти, Безбедност, 3/96

Вилијамс, Ф – Тасева, С – преведувач, Перење пари, Безбедност, - бр. 4/1997

William C.Gilmore – Dirty Money: The evolution of money laundering countermeasures, Council of Europe Publishing, 1999.

Илиевски.Ј.,- Концептот на перење пари според кривичната постапка на Република Македонија, МРКРК бр.2-3, Скопје, 2008 година

Камбовски, В – Правната држава и организираниот криминал, МРКК бр.1-2 од 1996 год. Камбовски, В – Превенција и репресија на перењето пари, стручно списание, Правник ноември 2001, Скопје.

Камбовски, В – Организиран Криминал, Скопје 2005

Лакич, С – Перење на пари, бр.39/1998, Службен весник на РМ, Скопје, 2002

Лајман, Мајкл.Д. и Потер, Гари.В., Организиран Криминал, Скопје, Магор, 2009 година

Тасева, С - „Перење пари“ , Дата Понс, Скопје 2003.

Taseva, S – Money laundering, Skopje, 2007.

Стратегија за спречување на перење пари: збирка на прописи од областа на спречувањето на перењето на пари и финансирањето на тероризмот: (домашни и меѓународни) Скопје, Форум 2005.

Управа за спречување на перење пари и финансирање тероризам, Национална стратегија за

борба против перење пари и финансирање на тероризам 2006-2010 година.

Управа за спречување на перење пари, Годишни Извештаи, Скопје, 2002-2010 год.

Прирачник за спроведување на мерки и дејствија за спречување на перење пари и финансирање на тероризам од страна на субјектите, Скопје: Министерство за финансии,

Дон Медингер – Перење пари: водич за кривични иследници, ДатаПонс, Скопје, 2009 година

Чапрагоски, Ц – Чоневски, А – Перење пари и финансирање тероризам во глобалниот криминалитет, Скопје, МИТ Универзитет, 2010

CARPO Regional Project 2007, - "Update of the 2006 Situation Report on Organized and Economic

Crime in South-eastern Europe", European Commission, Council of Europe, Strasbourg.

Закон за спречување на перењето пари, Службен Весник на РМ бр. 04/2008

Кривичен законик на Република Македонија, Службен весник на РМ бр.80/99, 4/02, 43/03,

19/0473/06 и 139/2008

Закон за кривична постапка, Службен весник на РМ бр.44/02, 74/04, 15/05 и 83/08

Камбовски. В – Коментар на Кривичниот Законик на Република Македонија, Скопје, 2011.