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Sciurba Michele,
Post-graduate student, Interregional Academy of Personnel Management, 03039, Kyiv, Str. Frometivska, 2, tel.: (063) 951 78 55, e-mail: Scurba_2018@ukr.net
ORCID: 0000-0001-5391-8884

Щурба Мікеле,
аспірант, Міжрегіональна Академія управління персоналом, 03039, м. Київ, вул. Фрометівська, 2, тел.: (063) 951 78 55, e-mail: Scurba_2018@ukr.net
ORCID: 0000-0001-5391-8884

Щурба Микеле,
аспирант, Межрегиональная Академия управления персоналом, 03039 г. Киев, ул. Фрометовская, 2, тел.: (063) 951 78 55, e-mail: Scurba_2018@ukr.net
ORCID: 0000-0001-5391-8884
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COOPERATION OF INTERNATIONAL INSTITUTIONS ON PUBLIC POLICY FORMATION FOR THE PREVENTION OF MONEY-LAUNDERING

Abstract. This article is devoted to the research of theoretical and practical issues of international institutions concerning the cooperation on the formation of anti-money laundering state regulation. The article provides an analysis of the main activity fields of intergovernmental institutions in the prevention of laundering "dirty" money. It is shown that the goal of consolidating the efforts of international structures is to integrate standards and recommendations into the mechanisms of public administration in order to ensure financial stability and integrity of state development as well as better financial supervision and control by the state.

It is noted that the problem of money laundering can not be solved only by creating new organizational forms of state control, extraordinary and punitive measures. It requires understanding of this phenomenon as having an economic, political, ethical, managerial and legal background. The process of state regulation of money laundering should apply to all employees of state authorities, administration, justice, (stipulated by the legislation of a number of countries) and public entities with public service functions, and not just so-called officials. Important regulations for the forms and procedures for monitoring civil servants, the availability and effectiveness of the code of ethics and behavior.

It is substantiated that the effectiveness of implementing measures to prevent corruption can not be achieved through single and non-systemic actions at different levels, but requires long-term socio-economic, political and legal transformations. This activity should be based on a combination of a number of preventive and repressive measures.

Thus, the fight against money laundering and terrorist financing is now considered as a priority direction in counteracting organized crime in most countries of the world and in the world community as a whole.

Keywords: public policy, prevention of money laundering, proceeds of crime.

СПІВПРАЦЯ МІЖНАРОДНИХ УСТАНОВ ЩОДО ФОРМУВАННЯ ДЕРЖАВНОЇ ПОЛІТИКИ ІЗ ЗАПОБІГАННЯ ВІДМИВАННЮ КОШТІВ

Анотація. Досліджено теоретичні та практичні питання співпраці міжнародних установ щодо формування державного регулювання протидії відмиванню коштів. Стаття містить аналіз основних напрямів діяльності міжурядових інституцій щодо запобігання та поширення "брудних" грошей. Показано, що метою консолідації зусиль міжнародних структур є інтеграція стандартів та рекомендацій із протидії відмиванню коштів та фінансуванню тероризму в механізми державного управління щодо забезпечення фінансової стабільності та цілісності державного розвитку, кращого фінансового нагляду та контролю з боку держави.

Відмічено, що проблема відмивання коштів не може бути вирішена лише за рахунок створення нових організаційних форм державного контролю, надзвичайних і каральних заходів. Потрібне усвідомлення цього явища як такого, що має економічну, політичну, етичну, управлінську та правову ознаки. Процес державного регулювання відмивання коштів повинен застосовуватися до всіх службовців органів державної влади, управління, правосуддя (що передбачено законодавством ряду країн) і громадських структур, наділених функціями обслуговування населення, а не лише до так званих посадових осіб. Важливі регламентація форм і процедури контролю за державними службовцями, наявність та дієвість кодексу посадової етики та поведінки.

Обґрунтовано, що ефективність реалізації заходів щодо запобігання корупційній злочинності не може бути досягнута шляхом поодиноких і несистемних дій на різних рівнях, а потребує довгострокових соціально-економічних, політичних та правових перетворень. Ця діяльність має ґрунтуватися на поєднанні низки запобіжних і репресивних заходів.

Таким чином, нині боротьба з легалізацією (відмиванням) доходів, одержаних злочинним шляхом, і фінансуванням тероризму розглядається як пріоритетний напрям протидії організованій злочинності у більшості країн світу та світовою спільнотою в цілому.

Ключові слова: державна політика, запобігання відмиванню коштів, доходи, отримані злочинним шляхом.

СОТРУДНИЧЕСТВО МЕЖДУНАРОДНЫХ УЧРЕЖДЕНИЙ ПО ФОРМИРОВАНИЮ ГОСУДАРСТВЕННОЙ ПОЛИТИКИ ПРЕДОТВРАЩЕНИЯ ОТМЫВАНИЯ СРЕДСТВ

Аннотация. Исследованы теоретические и практические вопросы сотрудничества международных организаций по формированию государственного регулирования противодействия отмыванию средств. Статья содержит анализ основных направлений деятельности межправительственных институций по предотвращению и распространению "грязных" денег. Показано, что целью консолидации усилий международных структур есть интеграция стандартов и рекомендаций по противодействию отмыванию средств и финансированию терроризма в механизмы государственного управления по обеспечению финансовой стабильности и целостности государственного развития, лучшего финансового надзора и контроля со стороны государства.

Отмечено, что проблема отмывания средств не может быть решена только за счет создания новых организационных форм государственного контроля, чрезвычайных и карательных мер. Нужно осознание этого явления как имеющего экономический, политический, этический, управленческий и правовой признаки. Процесс государственного регулирования отмывания средств должен применяться ко всем служащим органов государственной власти, управления, правосудия (что предусмотрено законодательством ряда стран) и общественных структур, наделенных функциями обслуживания населения, а не только к так называемым должностным лицам. Важны регламентация форм и процедуры контроля за государственными служащими, наличие и действенность кодекса должностного этики и поведения.

Обосновано, что эффективность реализации мероприятий по предотвращению коррупционной преступности не может быть достигнута путем редких и несистемных действий на разных уровнях, а требует долгосрочных социально-экономических, политических и правовых преобразований. Эта деятельность должна основываться на сочетании ряда предупредительных и репрессивных мер.

Таким образом, в настоящее время борьба с легализацией (отмыванием) доходов, полученных преступным путем, и финансированием терроризма рассматривается как приоритетное направление противодействия организованной преступности в большинстве стран мира и мировым сообществом в целом.

Ключевые слова: государственная политика, предотвращение отмывания средств, доходы, полученные преступным путем.

Statement of the problem. The evolution of the global capital market is so rapid that, as a result, huge funds are circulating virtually uncontrolled. Currently, the laundering of illegal funds, as well as corruption, fundamentally

threatens the economies. Yet, there is a lack of clarity in the system of public administration in terms of how to counteract this phenomenon. This includes handling monopolies and unfair competition in entrepreneurial activity in all its forms.

Analysis of recent researches and publications. Scholars such as V. Aliieva, Z. Varnaliia, O. Gorbunova, A. Kiivets, A. Mokii, O. Rymaruk, O. Baranovskyi, S. Butkevych, L. Voronova, I. Kolomiets, etc. have comprehensively analysed the development of the basic principles of the policy to counteract and prevent the legalisation of illegal incomes as well as the international experience of the implementation of such a policy.

The aim of the study is to define the main aspects of cooperation of international agencies in the formation of state regulation for counteracting money laundering.

Presentation of the basic material. The analysis of international experience of anti-money laundering and anti-corruption regulation shows that money laundering and corruption are promoted by maintaining the multi-level monopolisation of the economy. This issue is intensified by the inadequate implementation of state management mechanisms, as the clear legal recognition of the rights and duties of people towards authorities as well as legislative protection is absent, leading to bureaucratic arbitrariness and the like.

Based on this, this article analyses in detail the experience of foreign countries concerning the state regulation development to prevent money laundering and corruption. In 1999, money laundering became a criminal offence under the International Convention for the Suppression of the Financing of Terrorism, which was an important step towards reducing offences related to illegal cash trafficking [1, 2]. The Financial Action Task Force on Money Laundering (hereinafter FATF), which is one of the leading intergovernmental bodies, supplemented its organisational structure with the formation of eight regional bodies of FATF type representing 180 countries of the world, aiming at the development and implementation of measures and standards against money laundering at the international level [3].

These regional working groups on money laundering issues played a crucial role in the introduction of state standards for counteracting money laundering and the financing of terrorism. In 2001, the FATF has intensified its collaboration with international organisations, such as the International Monetary Fund (hereinafter IMF), World Bank and the United Nations (hereinafter UN), regional authorities and multilateral public organisations.

In 2004, the FATF added nine special recommendations to the previous list of 40 recommendations to combat money laundering, which were adopted by IMF and World Bank, and later implemented at the state level in the countries of the European Union. The FATF recommendations are recognised as minimum standards to be applied by all public authorities [4]. After 2001, IMF expanded its strategy to combat money laundering to the counter-financing of terrorism [5]. Although IMF and World Bank are observers in the FATF, employees of both agencies participate in meetings and working

groups of the respective authorities. IMF and World Bank country assessments apply the FATF standards and practices [6]. The cooperation between FATF, IMF and World Bank in combating money laundering is expressed by the fact that they offer a financial sector evaluation program at the state level, reporting on the observance of financial integrity standards and rules of IMF and World Bank, including the FATF recommendations [7].

Since 2004, IMF has conducted over 35 assessments regarding the fight against money laundering and their results are often used by the FATF to further develop its recommendations.

The FATF recommendations help public and financial institutions to implement systems for customer due diligence and other comprehensive compliance procedures suitable for monitoring the risk of criminal operations in the public sector and reporting suspicious transactions. On this basis, the network of global cooperation in the AML field was created that allows to identify, freeze and confiscate assets and proceeds of crime [8]. The FATF plays an important role in the development of new strategies for combating money laundering as well as in the formation of appropriate government measures for their effective control. Today, the FATF includes 35 jurisdictions and two regional organisations as well as a large number of international organisations acting as observers, such as the UN, World Bank, IMF and the Basel Committee on Banking Supervision [9].

The purpose of the joint efforts made by the above defined structures is the integration of the standards and recommendations of combating money laundering and the financing of terrorism into the governance mechanisms in order to ensure financial stability and the integrity of public administration, which contributes to better financial supervision and control by the state [10].

The cooperation between the FATF, IMF and World Bank is unique in its structure, since their assessments to improve the quality and efficiency in the fight against money laundering and the financing of terrorism have created the most far-reaching legal network in the world [11]. Nevertheless, both IMF and World Bank are criticised for the way the FATF recommendations get implemented, as the FATF has not sufficiently determined primary and secondary objectives, neither in its standards developed in 2003 nor in the statement on methodology dated 2004 [12].

As a result, the FATF is unable to prove that its goals are achievable, even if its recommendations are implemented. As international organisations have critizised the fact that the FATF evaluation is focused only on formal compliance with the requirements of state regulatory regimes to combat money laundering, the FATF standards have been revised in 2013 based on the distinction between technical performance and regulatory efficiency.

In particular, the distinction between technical execution and efficiency in the Methodology 2013 is of main significance, since the international political agenda today requires the implementation of certain systems to counteract money laundering and the financing of terrorism. If countries fail to comply, they may face sanctions.

Now, in principle, two issues must be taken into account: (a) the logic of causation that links specific preventive and regulatory actions with specific outcomes, and (b) the possibility that alternative means that are implemented instead of the FATF's technical requirements can meet the objectives of the FATF at the highest level [13].

With the help of IMF and World Bank, the objectives identified in the FATF Methodology 2013 significantly increased in clarity, increasing the possibility of proper implementation into state regulation to prevent money laundering. The FATF has invited IMF and World Bank to join discussion and negotiation sessions with the FATF various times. The significance of their ongoing discussion on methodology and the assessment results of risks arising from money laundering and terrorist financing has not decreased. This is evidenced by the fact that similar criticisms were expressed about the FATF recommendations of 2013, in particular, due to the absence of a clear methodological definition of risks related to money laundering, terrorist financing and tax evasion [14].

Conclusions. The analysis of international experience of regulation to prevent money laundering has demonstrated that regulation should not be considered only from the organisational or managerial perspective, directed against certain criminal elements and their groupings, but also as a crucial point for the entire system of state governance. The experts from public administration note that the issue of money laundering cannot be solved only through the creation of new organisational forms of public control and emergency or punitive measures. The awareness is essential that this phenomenon has economic, political, ethical, managerial and legal characteristics. The process of state regulation of money laundering should apply to all employees of public authorities, state governance and justice systems, (stipulated by the legislation of some countries) and public institutions that serve the people. The implementation of regulation and control procedures for state employees, as well as the availability and effectiveness of the code of official ethics and conduct, is ultimately of central importance.

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