UDC 343.9.024:336.7

Jakulin V., Ph.D. Full Professor,
Faculty of Law, University of Ljubljana, Slovenia

GLOBALIZATION AND MONEY LAUNDERING

Money laundering is global problem for already many years. With the process of globalization it has became even more global. Such situation requires global reaction.

Money laundering is ranged in the group of international economic crime law as a branch or discipline of international criminal law. Although it is a relatively new notion which has not been yet generally acknowledged as a discipline of international criminal law, it could be nevertheless defined with regard to its subject in narrow and broader sense. International economic crime law in narrow sense encompasses only those international crimes which can be committed exclusively in the exercise of economic activity with a transnational element or in connection with such an economic activity. On the other hand, international economic crime law in broader terms covers all acts which have a detrimental impact on global economic trends or cause danger to the world economy. Among the acts which belong to this category we can list the following:

transnational organized crime,
money laundering,
corruption,
counterfeiting money,
violations of intellectual property rights,
insider trading,
cyber crime.

The prevention of money laundering has been a subject of extensive discussions, among others in the United Nations, European Union and Council of Europe which all adopted important legal acts. The United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances from 1988 is considered to be the first international legal instrument which defines the substance of the criminal offence of money laundering, although it does not even mention this notion. The Convention defines money laundering in descriptive form when it requires from the signatory states among other to define as criminal offence the acquisition, possession or use of money or property for which a perpetrator knows that it was acquired by narcotic drug trafficking.

The United Nations Convention against Transnational Organised crime from year 2000 binds the signatory states to adopt in accordance with the principles of domestic law legislative and other measures as may be necessary to establish as criminal offences the following acts, when committed

intentionally:

— the conversion or transfer of property or property benefit, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

— the concealment or disguise of the true nature, source, location, disposition, movement or ownership of property or rights with respect to property, knowing that such property is the proceeds of crime;

— the acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

— participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences.

The Convention recommends to signatory states to include in predicate offences as large as possible scope of criminal offences and in particular all serious crimes, criminal association, corruption and obstruction of justice.

Money laundering is partially included also in the UN Convention against Corruption from year 2003, which in Article 14 sets out the measures for the prevention of money laundering, often associated with corruption. In the continuation of the paper I shall focus on money laundering in the legal instruments of the European Union and Council of Europe.

The European Union has adopted so far three directives concerning the prevention of money laundering. The third one was the Directive 2005/60/EC of the European Parliament and the Council of 26 October 2005 on the Prevention of the Financial System for the Purpose of Money Laundering and Terrorist Financing which abrogated two previous directives.

The Directive 2005/60/EC that is currently in force consists of a relatively extensive preamble and 47 articles. The preamble contains some statements which deserve our attention. Among them I choose one as a sample.

Money laundering and terrorist financing are frequently carried out on the international level. Measures adopted solely at national or even Community level, without taking account of international coordination and cooperation, would have very limited effects.

Money laundering has been treated also by the Council of Europe which has adopted so far two conventions concerning the prevention of money laundering. The first convention was adopted already in 1990. This Convention was substituted in 2005 by the Convention No. 198 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. The Convention currently in force has a preamble and contains 56 articles and is divided to 7 chapters.

Legal instruments of the European Union and the Council of Europe which have been presented in this paper regulate quite precisely measures for the

prevention, detection and prosecution of money laundering. It is important that the mentioned legal acts require from the states, which are bound by these acts, to regulate money laundering in domestic legislation in accordance with definitions of money laundering contained in these acts. That means that the regulation of money laundering in national legislations is very similar, what facilitates the international cooperation, which is for the purpose of prevention and prosecution of money laundering offences particularly important.

УДК 342.951

Бєлкін Л. М., к.т.н., с.н.с.,
консалтингова фірма «Аналітик»,
м. Краматорськ, Донецька область, Україна

ІНСТИТУЦІОНАЛІЗАЦІЯ ПОНЯТТЯ «РЕВОЛЮЦІЯ ГІДНОСТІ»

Третій річниці Революції Гідності присвячується
Майдан – це така реальна народна містерія …
тут просто такий могутній монолітний народ
Артемій Троїцький, музичний критик (Росія),
17.12.2013 р. (цитується за джерелом [1], с. 9)

Поняття «Революція Гідності» достатньо широко використовується в політичній, історичній, учбовій, художній літературі [1, 2 та ін.]. Натомість масштабність впливу подій Революції Гідності на долю країни і окремих людей потребує юридично визначеності (інституціоналізації) цього поняття.

Нормативні документи, де використовується поняття «Революція Гідності», можна умовно поділити на наступні групи.

1. Юридичне визначення та соціальний захист. Першим нормативним актом, у якому робилася спроба врегулювати питання статусу учасників та соціальної підтримки сімей учасників Революції Гідності, була Постанова Кабінету Міністрів України (КМУ) від 28.03.2014 р. № 76 із тодішньою назвою «Про соціальний захист членів сімей осіб, смерть яких пов’язана з участю в масових акціях громадського протесту, що відбулися у період з 21.11.2013 р. по 21.02.2014 р.». Особливості соціальної підтримки сімей учасників Революції Гідності у 2015 р. визначалися Постановою КМУ від 11.02.2015 р. № 51 «Про виплату у 2015 році одноразової грошової допомоги членам сімей осіб, смерть яких пов’язана з участю в масових акціях громадського протесту, що відбулися у період з 21.11.2013 р. по 21.02.2014 р., та особам, які отримали тяжкі тілесні ушкодження під час участі у зазначених акціях». Але тоді у текстах цих Постанов не використовувалося поняття