

## **Counteraction to The Laundering of Funds Produced by Crime in The XXI Century: Lessons Learned for Kazakhstan**

Ernek Sokurova,<sup>1</sup> Alisher Kadyrbekov<sup>2</sup>

### **Abstract**

*In this article, the authors, based on the practice of Kazakhstan, consider the principles and mechanisms for counteracting the legalization of proceeds from crime. A criminological vision of the prospects in the field of combating crimes related to the legalization of proceeds from crime is formulated. The author's criminological concepts "criminal entrepreneur" and "unscrupulous official" are given. It also provides schemes for laundering money obtained by criminal means in the private sphere and with the participation of government officials. The authors of the article proposed working methods for investigating crimes committed using blockchain technologies, based on expert opinions in the field of investigating crimes in the cryptocurrency market.*

### **Intisari**

*Dalam artikel ini, penulis, berdasarkan praktik di Kazakhstan, mempertimbangkan prinsip dan mekanisme menangkal legalisasi hasil kejahatan. Visi kriminologis tentang prospek di bidang pemberantasan kejahatan yang berkaitan dengan legalisasi hasil kejahatan dirumuskan. Konsep kriminologi penulis "pengusaha kriminal" dan "pejabat yang tidak bermoral" diberikan. Ini juga menyediakan skema pencucian uang yang diperoleh dengan cara kriminal di ruang privat dan dengan partisipasi pejabat pemerintah. Penulis artikel mengusulkan metode kerja untuk menyelidiki kejahatan yang dilakukan dengan menggunakan teknologi blockchain, berdasarkan pendapat ahli di bidang penyelidikan kejahatan di pasar cryptocurrency.*

**Keywords:** *Shadow economy, counteraction to the legalization of illegally obtained funds, Kazakhstan, criminal law, criminology, money laundering.*

**Kata Kunci:** *Ekonomi bayangan, perlawanan terhadap legalisasi dana yang diperoleh secara ilegal, Kazakhstan, hukum pidana, kriminologi, pencucian uang.*

---

<sup>1</sup> Candidate of Judicial Science, Teaching Professor, Maqsut Narikbayev University (KAZGUU) Astana. Kazakhstan

<sup>2</sup> Master of Law, Teaching Assistant, Maqsut Narikbayev University (KAZGUU), Astana. Kazakhstan.

## A. Introduction

Today, in the 21st century, the issue of compliance with legislation in terms of taxation and ensuring the transparency of economic processes is more acute than ever. As a rule, for a constitutional state, a characteristic feature of the fight against crime is the development and implementation of its own strategy and plan to combat crime.<sup>3</sup> In the Republic of Kazakhstan, this legal document-program is the concept of the criminal policy of Kazakhstan until 2030.<sup>4</sup> It is an important tool for fighting crime and ensuring law and order in the country. In the context of ensuring the transparency of economic processes, it is of particular importance, as modern technologies and digital assets create new challenges for legal systems.

Since with the advent of digital assets, cryptocurrencies and blockchain technology, the shadow economy is acquiring new tools to hide income. In particular, we are interested in income and funds that are obtained by criminal means with their subsequent legalization. Since criminal elements can use the anonymity and decentralization of cryptocurrencies to commit financial crimes such as money laundering, terrorist financing and tax evasion.<sup>5</sup> In the context of combating such crimes and ensuring financial transparency, the concept of criminal policy of Kazakhstan until 2030 offers a comprehensive strategy and plan for combating crime.<sup>6</sup> It includes various measures and mechanisms aimed at preventing and suppressing financial crimes, as well as tax offenses.

Due to the emergence of new technologies, criminal law also does not stand still and pursues the goal of ensuring the strict execution of the principle of inevitability of punishment, i.e. The restoration of social justice, as an ordinary and stable state of civil society<sup>7</sup>. One of the main goals of the concept of criminal policy in Kazakhstan is to create an effective system for preventing and combating crimes in the shadow economy.<sup>8</sup> To achieve this goal, it is planned to strengthen the role of law enforcement agencies. It also provides for the improvement of legislation in the field of taxation and financial activities, adaptation to new challenges related to digital assets and

---

<sup>3</sup> Decree of the President of the Republic of Kazakhstan, February 26, 2021, No. 522, "On approval of the Concept for the development of public administration in the Republic of Kazakhstan until 2030," accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/U2100000522>.

<sup>4</sup> Decree of the President of the Republic of Kazakhstan, February 26, 2021, No. 522, "On approval of the Concept for the development of public administration in the Republic of Kazakhstan until 2030," accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/U2100000522>.

<sup>5</sup> Decree of the President of the Republic of Kazakhstan, February 26, 2021, No. 522, "On approval of the Concept for the development of public administration in the Republic of Kazakhstan until 2030," accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/U2100000522>.

<sup>6</sup> Decree of the President of the Republic of Kazakhstan, February 26, 2021, No. 522, "On approval of the Concept for the development of public administration in the Republic of Kazakhstan until 2030," accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/U2100000522>.

<sup>7</sup> Ramazan Nurtaev, "Current Issues of Observance of Criminal Law Principles." Accessed June 4, 2023.

<sup>8</sup> Decree of the President of the Republic of Kazakhstan, February 26, 2021, No. 522, "On approval of the Concept for the development of public administration in the Republic of Kazakhstan until 2030," accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/U2100000522>.

cryptocurrencies, which is indirectly seen in paragraph 2.6 of the Criminal Policy of Kazakhstan until 2030, which refers to the quasi-public sector:

*“...The informational secrecy of the quasi-public sector remains. There is no publicly available data on the structures of companies, financial performance, dividends paid and other aspects of the activities of legal entities with state participation. The current classification of state property does not reflect the commercial or non-commercial purpose of creating entities of the quasi-public sector, which leads to a lack of consistency in determining the organizational and legal forms of such organizations. In this regard, it is necessary to continue further reforming this area, which will create conditions for the formation of an effective, compact and transparent quasi-public sector with its division depending on the specifics of the activities of organizations”.*<sup>9</sup>

The concept of the criminal policy of Kazakhstan until 2030 reflects the state's desire for a fair and transparent economic development, where taxation is carried out in accordance with the law, and criminal actions in the economic sphere are subject to strict suppression, in the spirit of the principle of the inevitability of punishment.

## **B. Shadow, Informal, and Illegal or Criminal Economy**

Speaking about the shadow economy, it is necessary to understand that the “shadow economy (or shadow sector)” refers to the segment of the economy that operates outside the official platforms and markets, evading legislative regulation and tax obligations. In this sector, the same economic and market activities are undertaken, such as production, exchange of goods and services, but they are not registered and subject to state control and often pursue criminal goals. The shadow economy can include a variety of activities, including informal work, unpaid work, illegal trade, smuggling, money laundering, tax evasion, and other illegal activities. It is characterized by illegality and lack of transparency in financial transactions.

The main reasons for the emergence of the shadow economy include distrust of state institutions, complex bureaucratic procedures, high tax rates, lack of social security, corruption and insufficient legal protection. Quite often, the shadow economy thrives in countries with a low level of development and an ineffective system of control. The shadow economy has negative consequences for the economy and society. It reduces government revenues, disrupts competition and creates inequality. In addition, it weakens the social protection of workers, since activities that do not comply with the norms and laws often do not provide social benefits and legal guarantees.

---

<sup>9</sup> Decree of the President of the Republic of Kazakhstan, February 26, 2021, No. 522, "On approval of the Concept for the development of public administration in the Republic of Kazakhstan until 2030," accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/U2100000522>

The fight against the shadow economy requires an integrated approach, including improving legal regulation, reducing bureaucracy, reducing the tax burden, improving control and punishment for violations. Transparency, fairness and promotion of legal economic activity are important factors in combating the shadow economy and ensuring sustainable economic development. So, according to the opinion of the professor of the National Research University "Higher School of Economics" A. Balashov and graduate student T. Imamov, the shadow economy is a complex concept that includes three components: hidden, informal and illegal economy.<sup>10</sup> The authors refer to the "hidden economy" as a sector of the economy that is not officially taken into account in statistics and is not subject to taxation. It is also known as the underground or latent economy.<sup>11</sup> The reasons for its occurrence can be very different, from the tax burden, complex bureaucratic procedures, distrust of the government, lack of social and legal guarantees, and other factors. Individuals and legal entities can go into the hidden economy primarily to evade taxes, which is an economic crime, as well as to gain access to goods and services that are limited or withdrawn from civil circulation.<sup>12</sup>

The "informal economy", according to the authors, is an economic activity that is not officially recorded in statistics, but remains legal and open.<sup>13</sup> It is also one of the components of the shadow economy, but unlike the hidden economy, the informal economy is legal and can be seen within a legal context, i.e. for the economy, these funds and incomes are visible, but legally, persons receiving such incomes and engaged in such activities are not registered. The informal economy includes various types of activities that take place outside the formal market structures and institutions, but at the household level. As an example: low-income small businesses, self-employed workers (freelancers), sellers of vegetables and agricultural products from their gardens and greenhouses on a small scale, short-term renters of apartments, cars and other property, and similar forms of economic activity that are not at a professional level.<sup>14</sup>

### **a. Informal Economy**

The informal economy can arise for a variety of reasons, including inability or unsatisfactory pay levels in formal work or employment, lack of access to formal sources of income due to restrictive business conditions, or insufficient social protection. An example of such restrictions may be an insufficient level of labor qualification, minority, the presence of a criminal record, various kinds of discrimination and other reasons. Finally, the object of our study is the "illegal or criminal economy". The authors believe that this is a sector of the economy that

---

<sup>10</sup> A. Balashov and T. Imamov, "Shadow Economy: Concepts and Methods of Assessment." CyberLeninka, accessed June 4, 2023, <https://cyberleninka.ru/article/n/tenevaya-ekonomika-ponyatie-i-metody-otsenki/viewer>

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

includes activities that violate applicable law, most often associated with the criminal environment.<sup>15</sup>

### ***b. Illegal or Criminal Economy***

The illegal or criminal economy includes various activities such as smuggling, drug trafficking, illegal trade in weapons and other goods and services prohibited by the state, cybercrime, money laundering, corruption crimes and other forms of economic activity associated with illegal activities.<sup>16</sup> This sector of the economy is characterized by a lack of legal regulation and control, and its activities often evade taxation and official statistics. The illegal or criminal economy can cause significant damage to society, violate the rights and security of citizens, and undermine the rule of law and economic stability.

### **C. The Interplay of Blockchain, Cryptocurrency, and NFT**

At the moment, in the world, in parallel with the usual stock exchanges and securities markets, there are also online platforms for the sale, exchange and placement of digital assets in the form of cryptocurrency, tokens, NFTs and much more. However, unlike conventional exchanges and markets, where all financial transactions take place through auctions and bank payments for material assets and tangible property, transactions are conducted on online platforms - "transactions" for the right to possess a virtual, digitized thing, an object of the non-material world<sup>17</sup>.

In Kazakhstan, according to the Law of the Republic of Kazakhstan "On Digital Assets", the term "digital asset" means - "property created in electronic digital form with the assignment of a digital code, including using cryptography and computer computing, registered and secured by the immutability of information based on distributed data platform technologies". That is, in this definition, "electronic-digital form" means a thing not of the material - virtual world, but "ensuring the immutability of information based on the technology of a distributed data platform" means "blockchain" technology and cryptography in general.

Now it is necessary to define exactly what blockchain, cryptocurrency and NFT are. Blockchain is a distributed database consisting of a chain of blocks that uses cryptography to ensure the security, integrity and transparency of data.<sup>18</sup> In terms of cryptography, blockchain uses hash functions and encryption algorithms to create unique digital fingerprints (hashes) for each new block of data. These hashes link the blocks into a single chain and ensure that data in previous blocks cannot be changed without changing the entire chain. In addition, cryptography is used to ensure the

---

<sup>15</sup> I. Tretyakov "Criminal-legal and criminological measures to combat the legalization (laundering) of proceeds from crime." dissertation, 2012. P. 67.

<sup>16</sup> Friedrich Schneider, "Shadow Economies and Corruption All Over the World: What Do We Really Know?" *Journal of International Affairs* 70, no. 2 (2017): 111-125.

<sup>17</sup> V. Perov, "Qualification of crimes committed using cryptocurrency" dissertation, 2023, p. 45

<sup>18</sup> "Blockchain Explained" – IBM, accessed June 4, 2023, <https://www.ibm.com/topics/blockchain-explained>

security of transactions and the authentication of participants in the blockchain network.

According to the legal point of view, blockchain is considered as an innovative technology that can be regulated by various areas of law, such as contract law, intellectual property, personal data protection, trade law, tax law and others. Blockchain is also a source of legal disputes in the areas of ownership, regulation, use, privacy, liability and information security.

Cryptocurrency is a digital or virtual form of money based on cryptography and distributed ledgers (blockchain) that provides safe and secure transactions.<sup>19</sup> In terms of cryptography, cryptocurrency uses various mathematical encryption algorithms to ensure the privacy and security of transactions. It also relies on cryptographic signature principles to ensure that transactions are authentic and unforgeable. From a legal point of view, cryptocurrency and its definition may vary in different countries, according to their legislation. However, usually cryptocurrency is viewed as a digital asset or form of money that can be used to conduct transactions, regardless of geographic boundaries and without the involvement of third parties such as banks or governments.

Speaking of NFT or speaking in the language of cryptography, a non-fungible token is a digital asset based on blockchain technology that uses cryptography to ensure the uniqueness and authenticity of ownership of a digital asset in the form of a digital copy of an object, image, video, music and more.<sup>20</sup> In terms of cryptography, NFT uses blockchain technology to create unique and non-fungible digital tokens. Each NFT has its own unique code, which is recorded on the blockchain and confirms its authenticity and ownership. Cryptographic techniques are also used to secure and protect NFTs from being tampered with or altered. From a legal perspective, the NFT raises new questions and challenges in the areas of intellectual property, copyright, and ownership of digital assets. Legal issues may include determination of ownership, transfer of rights to digital content, liability for copyright infringement, and contractual relationships between parties. Various aspects of NFT legal regulation may differ in different jurisdictions. In other words, from the point of view of using NFT, it is a record of the ownership of one or another property using blockchain technology, as a more understandable example, it can be perceived as a register record of the ownership of a land plot, real estate or movable property.

In the modern world, crime does not stand still, especially in the financial sector. Therefore, the state, represented by law enforcement agencies, closely monitors and analyzes modern inventions and phenomena for their subsequent legal regulation. The legal regulation of economic processes in the country is designed to protect the legitimate interests of citizens and ensure the safety of business, with the

---

<sup>19</sup> "Cryptocurrency" Investopedia, accessed June 4, 2023, <https://www.investopedia.com/terms/c/cryptocurrency.asp>

<sup>20</sup> "Non-Fungible Tokens (NFTs) Explained." CoinDesk, accessed June 4, 2023, <https://www.coindesk.com/learn/nft-101/what-are-nfts>

establishment of guarantees and improvement of the investment climate. However, this does not mean that any transactions and financial transactions on trading floors are legal and in the legitimate interests of legal entities.

Such a phenomenon as the "legalization" of proceeds of crime has existed for a long time, but as a subject of legal regulation and criminology, it has appeared relatively recently. So one of the well-known examples of "legalization" can be the criminal activities of Al Capone, who carried out the legalization, or as it was later called "money laundering" through a network of own laundries, i.e. he recorded the proceeds of crime as income from laundry services. Thus, "dirty" money from crimes became "clean". But even in this case, the criminal remains a criminal, legalizing the funds from more serious crimes, he committed tax offenses, i.e. did not pay taxes from legal laundries, which aroused the interest of the tax authorities, which subsequently led to his capture.<sup>21</sup>

In modern realities, such "laundries" can be platform technologies for transactions with digital assets, namely with a blockchain-based cryptocurrency. According to research by employees and experts of the BINANCE cryptocurrency exchange (Head of LE Training at Binance - Jarek Jakubcek, senior trainer in LE training - Melanie Lefebvre), criminals often use a tool and platform like "Tornado Cash" to potentially launder funds obtained by criminal means. Since this platform, as a "mixer", accepts cryptocurrency from platform users from their crypto wallets to its platform, mixes them and then distributes the funds back to their crypto wallets, according to the invested funds. Which is another way to complicate the procedure for tracking criminal funds. However, according to the same BINANCE experts, these actions do not completely hide the participants in such operations and they can still be tracked using platforms such as "Blockchain etexplorer". So, using the "Blockchain etexplorer" system, you can check the fact of transfer, receipt of funds to a crypto address with the subsequent movement of these funds. Or, going even further, you can use the "Walletexplorer.com" system, which can help in establishing crypto addresses and their owners.<sup>22</sup> In other words, crimes in the cryptocurrency sphere are not as difficult to investigate and unpunished as it seems at first glance<sup>23</sup>.

#### **D. A Comparative Analysis on Regulating Proceeds of Crime**

##### **a. *United Kingdom***

I would also like to note the experience of the UK in the field of regulation of proceeds of crime, so according to the UK Law "On Crime Finance" the presumption of innocence, in terms of unexplained wealth in the accounts of persons who have come

---

<sup>21</sup> Kelly Phillips, "Al Capone Convicted On This Day In 1931 After Boasting, 'They Can't Collect Legal Taxes From Illegal Money'." *Forbes*, accessed June 4, 2023, <https://www.forbes.com/sites/kellyphillipserb/2020/10/17/al-capone-convicted-on-this-day-in-1931-after-boasting-they-cant-collect-legal-taxes-from-illegal-money/?sh=74b4aa641435>

<sup>22</sup> Jarek Jakubcek and Melanie Lefebvre, "Blockchain Compliance" Online Lecture Series. Astana Hab, May 16-17, 2023.

<sup>23</sup> Cryptocurrency Exchange Binance. Accessed June 4, 2023. <https://www.binance.com/ru>.

to the attention of tax and law enforcement agencies, is not working. Since if a person cannot legally explain the source and nature of the funds received on his account, then these funds are recognized as criminal and can be turned into state revenue. In other words, the burden of proving the "purity" of income lies with the suspected person<sup>24</sup>.

### **b. United States of America**

In the United States, Money Laundering refers to a complex process carried out at the local, national or international level, which involves a large number of financial intermediaries in various jurisdictions. Money laundering is necessary for criminals for two main reasons: avoiding involvement in crimes that resulted in proceeds (predicate crimes); and the ability to use these proceeds as if they were of legitimate origin. In other words, money laundering masks the criminal origin of financial assets so that they can be freely used. Thus, money laundering has 3 stages: placement, stratification and integration. At the placement stage, illegal profits, criminal funds, are introduced into the financial system. At the second stage of stratification, there is a transformation or transfer of funds in order to blur the trace of his involvement with a criminal source. And the last level, integration, where funds are returned to the legitimate economy<sup>25</sup>.

Also, US lawmakers adopting the law "On digital taxonomy" explain their position as follows:

*"As legislators, we must ensure that the United States continues to lead the blockchain technology. The law on digital taxonomy adds greater jurisdictional clarity for a strong digital asset market in the United States"*<sup>26</sup>.

Considering the criminological part of the phenomenon of "legalization", we can talk about two areas of application of this criminal tool. The first is "legalization" between private individuals (individuals and legal entities) who are not affiliated with the state and who use all sorts of tools for legalizing proceeds from crime. Transactions are carried out between two or more persons, the subject of which may be various kinds of goods and services that do not actually exist in the real environment or are provided in a minimal amount. In other words, fictitious transactions and forgery of financial statements.

As for the second sphere, it occurs between private individuals and civil servants (officials) or employees of quasi-state organizations. These actions acquire a corruption color and, as a rule, use the state-administrative resource.

<sup>24</sup> UK Crime Finance Act, accessed June 4, 2023, <https://www.legislation.gov.uk/ukpga/2017/22/contents>.

<sup>25</sup> "Definition of Money Laundering." In Britannica. Accessed June 4, 2023. <https://www.britannica.com/topic/money-laundering#ref1199324>.

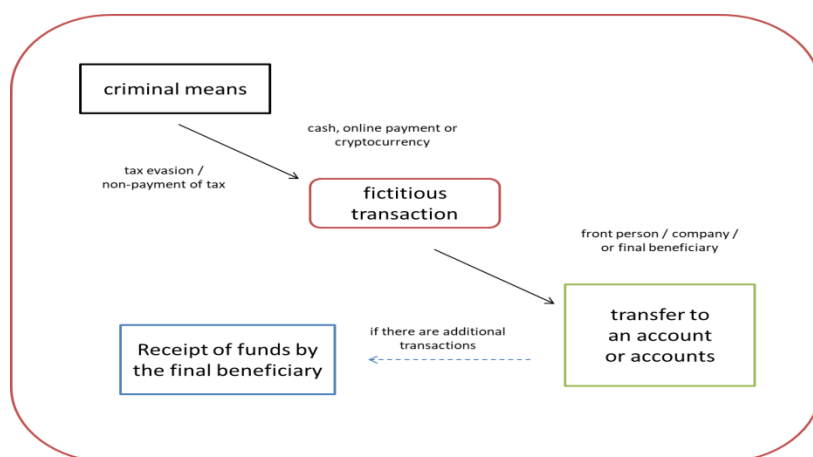
<sup>26</sup> "US lawmakers on the new law 'On digital taxonomy.'" Freedmanclub. Accessed June 4, 2023. <https://freedmanclub.com/zakonodelstvo-o-blockchain-v-usa/>.



The division of schemes into two types: private individuals – private individuals” and “private individuals – civil servants (corruption)”.

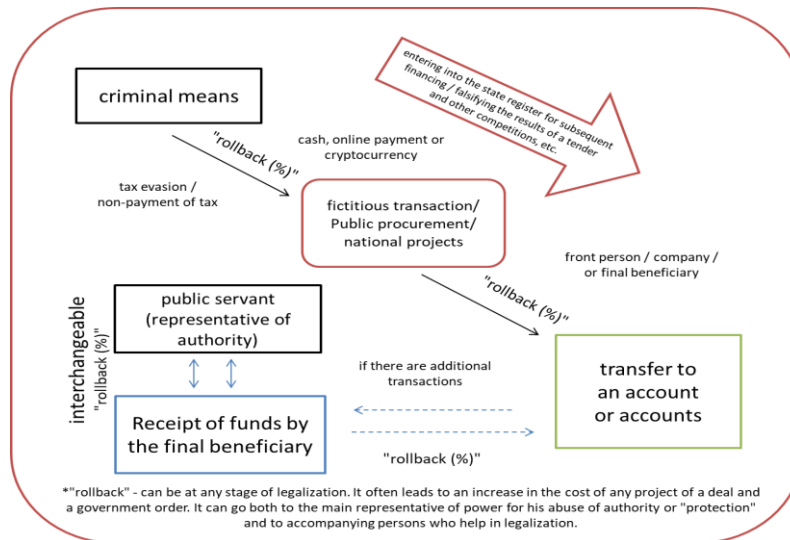
Analyzing two types of the income legalization sector, we can draw up two schemes. Scheme No. 1 shows legalization in the private sector, where only individuals and companies participate. In this scheme, the funds obtained by criminal means from the category of "dirty" and illegal ones with the help of fictitious transactions (transactions) are transferred to the category of legal ones. And already from them, at the discretion of the participants in such transactions, taxes are paid. Thus, for the state, this income is quite legal. However, such transactions, as a rule, due to the criminal greed of the persons making them themselves, take place without paying taxes, in one or several large tranches through nominees or one-day firms created for such schemes. Which is later confirmed by the tax or investigating authorities.

Scheme No. 1 - legalization in the private sector.



Scheme No. 2 shows legalization involving state elements and officials, where the private sector and state representatives participate. Exactly the same actions take place here as in scheme No. 1, however, the procedure is complicated by the presence in it of representatives of the authorities (the state) who are interested in personal enrichment as a result of an illegal transaction. So, when a new element appears, from a simple legalization of funds obtained by criminal means, actions take the form of a corruption scheme. Where, with the support of officials or in their criminal interests, transactions, competitions (tenders) are made for financing from the state treasury or for obtaining other material / non-material benefits. Each step may additionally involve new persons with state functions and who receive so-called “kickbacks” for their complicity - interest from transactions or other benefits. These kickbacks often lead to a rise in the cost of government projects and other government orders.

Scheme No. 2 - legalization with the participation of state representatives.



Based on the foregoing, we come to the conclusion that an ordinary individual laundering funds obtained by criminal means acts in order to use such funds at a completely legal level, covering them under the guise of ordinary transactions, using all sorts of ways of legal money and material circulation and such a person can be conditionally called a "criminal businessman". As a rule, he enjoys authority in business circles, has a higher education (economic, legal, etc.) or experience in the field of trade. Violates the law exclusively through financial institutions, under the guise of legal activities.

Speaking of a person participating in scheme No. 2, this is the same criminal individual who is in the public service or in a state company, is endowed with power, has access to sources of financing (budget) or knows such a person with whom he is in trust relationships. Basically, he does not show his presence in official documents and transactions, he participates in them through nominees (relatives, close friends, subordinates), who are in various ways dependent on this official. In addition to such criminal schemes, he may commit corruption crimes such as abuse of authority, forgery, giving/receiving bribes, and brokering bribes. All this characterizes the so-called "not clean official".

With the advent of blockchain technology, the legalization of proceeds from crime has received a new tool for laundering. Everything happens through uncontrolled, decentralized platforms, mining pools, cryptocurrency exchanges and crypto exchanges. The legislation of most countries of the world does not regulate them in any way, but only tries to take measures to regulate them.

### c. *Kazakhstan*

Currently, in Kazakhstan, the adopted law on "digital assets" defines: entities - miners, mining pools and cryptocurrency exchanges; their location - the territory of Kazakhstan - for servers and databases, the Astana International Financial Center for registering companies and cryptocurrency exchanges as platforms for transactions in cryptocurrencies. Kazakhstan also determined that such activities are registered and licensed by the authorized body, which is the Ministry of Digital Development and

Aerospace Industry of the Republic of Kazakhstan; The validity period of the license for making such transactions is defined as three years with a tax duty of 2000 monthly calculation indices at the moment (2023 1 MCI = 3450 tenge), this amount is 6.9 million tenge, or at the rate of 1 US dollar - 449.19 tenge this amount is 15,360.98 US dollars. However, Kazakhstan has just begun the path of regulation of this sphere. Of interest are Europe and the United States, which, in addition to legislative regulation and the definition of "digital assets", impose a tax on profits from such transactions.

Thus, in the European Union, this category of transactions is not regulated at the EU level, but transferred to the regulation of the member states, since in 2015 the Court of Justice of the European Union (CJEU) ruled that transactions with Bitcoin are exempt from consumption tax in accordance with the section on actions with currencies and legal tender coins and these transactions should be regulated by EU member states, since tax control is the prerogative and sovereignty of the state. So, for example, for Germany, the tax can be up to 45% of income, and in France this figure can reach 30-34%. In the US, however, cryptocurrencies and other digital financial instruments have been equated with property, all transactions with cryptocurrencies are subject to the same tax as transactions with property in the corridor from 0 to 20% as capital gains and from 10 to 37% as income tax.<sup>27</sup>

If we talk about the implementation of norms that contribute to counteracting the legalization of funds obtained by criminal means, following the example of Kazakhstan, we see that the country's participation in international treaties such as: the Convention on Mutual Administrative Assistance in Tax Matters (Strasbourg Convention of 1988), the CIS Treaty ) crime proceeds and financing of terrorism of 2007, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime of 1990 and other international documents - proves Kazakhstan's commitment to guaranteeing the financial security of investors and ordinary citizens, which also contributes to the development of the country in the direction combating crime in the field of blockchain, which does not contradict international obligations.

Thus, Article 3 of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime, which refers to investigative measures and interim measures, states that "Each Party shall take legislative and other necessary measures that enable it to identify and search for property subject to confiscation in accordance with Article 2, paragraph 1, and prevent any transactions with such property, its transfer or disposal"<sup>28</sup> - from which it follows that the measures taken to investigate crimes in the digital space are not a violation of human rights, but rather are aimed at protection of his legitimate rights and interests.

---

<sup>27</sup> "Taxation of Operations with Cryptocurrency in the World - Guide 2022." International Wealth, accessed June 4, 2023, <https://internationalwealth.info/cryptocurrency/nalogooblozhenie-operacij-s-kriptoaljutoj-v-mire-gajd/>

<sup>28</sup> Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime (Strasbourg, November 8, 1990), accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/Z1100000431>.

With regard to taxes subject to verification and payment, according to Article 2 of the Convention on Mutual Administrative Assistance in Tax Matters of June 01, 2011 (Council of Europe), where a list of taxes is given, especially “taxes on income or profits”, “taxes on capital gains , which are established separately from the tax on income and profits” and "taxes on net assets", which will allow checking the authenticity of transactions and the legality of income and assets received on a person's account<sup>29</sup>.

There is also the opinion of some scientists, in particular Abay Abylaiuly, in his article “Analysis of foreign legislation: the UK Criminal Finance Law on additional implementation and accession to Article 20 of the 2003 Convention against Corruption, where the author proposes to criminalize “illicit enrichment” and implement international legal obligation<sup>30</sup>.

The mechanisms for the legalization of proceeds from crime are also spelled out in Article 12 of the CIS Treaty "On Combating the Legalization (Laundering) of Criminal Proceeds and the Financing of Terrorism", where the following acts are recognized as criminally punishable:

- (a) the conversion of property, as well as any dealings with it, if such property is known to be the proceeds of crime, carried out for the purpose of concealing or concealing the criminal source of this property or for the purpose of assisting any person involved in the commission of the underlying crime, in order to so that it can evade responsibility for its actions;
- (b) concealment or concealment of the true nature, source, location, method of disposal, movement of property or rights to it, or its ownership, if it is known that such property is the proceeds of crime;
- (c) the acquisition, possession or use of property, if such property is known to be the proceeds of crime;
- (d) complicity in the commission of any of the crimes recognized as such in accordance with this article, as well as an attempt to commit such a crime or preparation to commit such a crime;
- (e) financing of terrorism<sup>31</sup>.

## **E. Conclusion**

Based on the foregoing, a completely logical question arises of regulating and determining ways to resolve the issues and problems that have arisen with

<sup>29</sup> Convention on Mutual Administrative Assistance in Tax Matters, June 1, 2011, accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/P1300001268>

<sup>30</sup> Abai Abylaiuly, "Analysis of Foreign Legislation: The Criminal Finances Act of the United Kingdom." Nauchno-pravovoy zhurnal "Vestnik Instituta zakonodatel'stva i pravovoy informatsii Respubliki Kazakhstan" 1, no. 50 (2018). Accessed June 4, 2023. <https://vestnik.zqai.kz/index.php/vestnik/article/view/646>.

<sup>31</sup> Agreement of the Commonwealth of Independent States on Countering the Legalization (Money Laundering) of Criminal Proceeds and Financing of Terrorism, accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/Z1100000422>.

cryptocurrency and activities in the field using blockchain technologies. We think, based on the nature of transactions, namely their main goal is to make a profit in the form of income, it is necessary to introduce a parallel declaration of not only income, but also expenses, since this will allow the tax authorities to see whether this or that transaction was reflected in the declarations of the parties to the transaction, they paid the corresponding tax, and for law enforcement agencies these declarations will become a tool to verify the legality of such transactions.

In our opinion, further development is needed of investigation plans in terms of determining the range of questions from the investigator to an expert in the field of cryptocurrencies and tracking transactions on cryptocurrency exchanges, as an example of questions: “how many transactions or chains of transactions were made connecting a certain crypto wallet / crypto address?”, “does a certain crypto wallet / crypto address belong to that or to another person or company?”, “Is the transaction legal?”, “Is this digital asset secured by this or that property/rights?”, “Does the presence of a large number of crypto wallets/crypto addresses in one person indicate its illegal activities and fictitious transactions? ”, “were certain crypto wallets/crypto addresses involved in certain transactions?” and a number of others establishing the nature of transactions and the relationship between the funds obtained by criminal means with the final result in the form of legal property or funds.

We think that it is necessary training of professional personnel, namely IT specialists, who would have sufficient experience to work on cryptocurrency exchanges and marketplaces, able to see the vulnerabilities of such sites, eliminate them and transfer the necessary information to authorized and law enforcement agencies. Also, the introduction of hours "Blockchain Compliance" and "Cybersecurity" as the main disciplines into the training program of the specialties "Law Enforcement" or "Investigative Forensics" as the main disciplines, in parallel with the basic disciplines as "Theory of State and Law", "Criminal Law", "Criminal Procedural Law ", "Criminology" and "Criminalistics"<sup>32</sup>.

All this will make it possible to train personnel for the effective investigation of crimes in cyberspace. Speaking about the investigation, it is also necessary to emphasize the establishment of jurisdiction, as the United States and the European Union did, when it comes to investigating cases related to crimes related to cryptocurrency and blockchain technology. In Kazakhstan, such jurisdiction may be assigned to the competent authorities represented by the Financial Monitoring Agency of the Republic of Kazakhstan and the Ministry of Digital Development and Aerospace Industry of the Republic of Kazakhstan. Where control over the activities of cryptocurrency exchanges will be carried out by the Ministry, and the investigation and restoration of violated legislation is assigned as the exclusive competence of the Financial Monitoring Agency.

---

<sup>32</sup> "Catalog of Educational Programs of the Maqсут Narikbayev University (KAZGUU)." Accessed June 4, 2023. <https://kazguu.tecre.kz/ru/educational-programs>.

Jurisdiction can also be established through international agreements between countries and regional cryptocurrency exchanges as a tool for establishing transparency and returning digital assets. That will pursue the goal of facilitating the search for illegally exported funds abroad and the establishment of the ultimate beneficiaries. Since the very specificity of blockchain technology makes it easy to track transactions and digital assets created on its basis. We believe that the above solutions to regulating modern challenges in combating money laundering are promising and effective, which will reduce the number of such criminal offenses in the future and this will make economic legal relations safer.

## BIBLIOGRAPHY

### Books

Schneider, Friedrich, and Friedrich Schneider. "Shadow Economies and Corruption All Over the World: What Do We Really Know?." Chapters (2008): 122-187..

### Legislations

Decree of the President of the Republic of Kazakhstan, February 26, 2021, No. 522, "On approval of the Concept for the development of public administration in the Republic of Kazakhstan until 2030", accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/U2100000522>.

Law of the Republic of Kazakhstan "On Digital Assets" dated February 06, 2023 accessed June 4, 2023, [https://online.zakon.kz/Document/?doc\\_id=38779038](https://online.zakon.kz/Document/?doc_id=38779038)

Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime (Strasbourg, November 8, 1990), accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/Z1100000431>.

Convention on Mutual Administrative Assistance in Tax Matters, June 1, 2011, accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/P1300001268>.

Agreement of the Commonwealth of Independent States on Countering the Legalization (Money Laundering) of Criminal Proceeds and Financing of Terrorism, accessed June 4, 2023, <https://adilet.zan.kz/rus/docs/Z1100000422>.

UK Crime Finance Act, accessed June 4, 2023, <https://www.legislation.gov.uk/ukpga/2017/22/contents>.

### Dissertation

I. Tretyakov "Criminal-legal and criminological measures to combat the legalization (laundering) of proceeds from crime." dissertation, 2012. P. 67

V. Perov, "Qualification of crimes committed using cryptocurrency" dissertation, 2023. P.4.

### Miscellaneous

A. Balashov and T. Imamov, "Shadow Economy: Concepts and Methods of Assessment." CyberLeninka, accessed June 4, 2023, <https://cyberleninka.ru/article/n/tenevaya-ekonomika-ponyatie-i-metody-otsenki/viewer>

- "Blockchain Explained" – IBM, accessed June 4, 2023, <https://www.ibm.com/topics/blockchain-explained>.
- "Cryptocurrency" Investopedia, accessed June 4, 2023, <https://www.investopedia.com/terms/c/cryptocurrency.asp>.
- "Non-Fungible Tokens (NFTs) Explained." CoinDesk, accessed June 4, 2023, <https://www.coindesk.com/learn/nft-101/what-are-nfts>.
- Kelly Phillips, "Al Capone Convicted On This Day In 1931 After Boasting, 'They Can't Collect Legal Taxes From Illegal Money'." Forbes, accessed June 4, 2023, <https://www.forbes.com/sites/kellyphillipserb/2020/10/17/al-capone-convicted-on-this-day-in-1931-after-boasting-they-cant-collect-legal-taxes-from-illegal-money/?sh=74b4aa641435>.
- Jarek Jakubcek and Melanie Lefebvre, "Blockchain Compliance" Online Lecture Series. Astana Hab, May 16-17, 2023.
- "Taxation of Operations with Cryptocurrency in the World - Guide 2022." International Wealth, accessed June 4, 2023, <https://internationalwealth.info/cryptocurrency/nalogooblozhenie-operacij-s-kriptoaljutov-v-mire-gajd/>.
- Abai Abylaiuly, "Analysis of Foreign Legislation: The Criminal Finances Act of the United Kingdom." Nauchno-pravovoy zhurnal "Vestnik Instituta zakonodatel'stva i pravovoy informatsii Respubliki Kazakhstan" 1, no. 50 (2018). Accessed June 4, 2023. <https://vestnik.zqai.kz/index.php/vestnik/article/view/646>.
- "Definition of Money Laundering." In Britannica. Accessed June 4, 2023. <https://www.britannica.com/topic/money-laundering#ref1199324>.
- "Catalog of Educational Programs of the Maqsut Narikbayev University (KAZGUU)." Accessed June 4, 2023. <https://kazguu.tecre.kz/ru/educational-programs>.
- Ramazan Nurtaev, "Current Issues of Observance of Criminal Law Principles." Accessed June 4, 2023. <https://cyberleninka.ru/article/n/aktualnye-problemy-soblyudeniya-printsipov-ugolovnogo-prava/viewer>.
- Cryptocurrency Exchange Binance. Accessed June 4, 2023. <https://www.binance.com/ru>
- "US lawmakers on the new law 'On digital taxonomy.'" Freedmanclub. Accessed June 4, 2023. <https://freedmanclub.com/zakonodelstvo-o-blockchain-v-usa/>.