



SOME ISSUES THAT ARISE WHEN DEFINING PREDICATE CRIMES FOR CRIMES RELATED TO MONEY LAUNDERING

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Article history:	Abstract:
Received: October 17 th 2023 Accepted: November 14 th 2023 Published: December 20 th 2023	This article describes the main crimes that lead to the commission of crimes related to the legalization of proceeds from criminal activity, that is, the term predicate crimes. The article analyzes the requirements set for predicate crimes in the FATF, the main organization in this field, and the Conventions regulating this field. In addition, the article examines the experience of foreign countries, their level of implementation of FATF requirements on predicate crimes, problems arising during implementation. At the end of the article, proposals for the Criminal Code of the Republic of Uzbekistan were developed and the term "predicate crimes" was defined.

Keywords: Predicate crimes, FATF, legalization, Convention, criminal code

This organization has developed 40 recommendations for member states, and its 3rd recommendation requires member states to define a predicate crime for the crime of legalization. According to this recommendation, it is stated that the member states should define all crimes as predicate or associate crimes with a certain period of imprisonment or define predicate crimes based on certain criteria¹.

A list of predicate crimes was formed in the conventions adopted on crimes related to money laundering, for the Vienna Convention of 1988, it was illegal trafficking of narcotic drugs and psychotropic substances, for the Palermo Convention of 2000, transnational organized crime, etc. The list of predicate crimes for conventions on combating money laundering is much broader than the list established by FATF member states. Thus, according to Article 1 of the Strasbourg Convention of 1990, "predicate crime" means any crime from which the proceeds of which may become the object of the crime under Article 6 of this Convention (ie. the subject of money laundering).

Several scientists working in this field have defined this term in their scientific works.

In particular, According to Solovyov², the predicate crime is a crime committed with malicious intent, as a result of which illegal property is taken and later legalized. Also Lyaskalo A.N³. and defined that "legalization (legalization) of criminally acquired money and other property is a logical continuation of the main (predicate) crime." According to D. A. Ashin⁴, one of the Russian scientists, Predicate is a situation in which the commission of the main crime cannot be imagined without the previous, simultaneous or subsequent actual commission or the intention to commit another crime.

In the Republic of Uzbekistan, any crime included in the Criminal Code, if it leads to criminal income, is considered a predicate for money laundering. However, neither the Criminal Code nor the Law "On Combating Money Laundering, Financing Terrorism, and Financing the Distribution of Weapons of Mass Destruction" defines "Predicate Crimes". Defining the term predicate crimes at the level of the law and defining the predicate crimes not in general, but specifically, would prevent some problems that may arise during the preliminary investigation, inquiry and trial stage.

¹ https://www.un.org/ru/documents/decl_conv/conventions/law_treaties.shtml

² Solovyev, I. N. (2015). Nalogovyye prestupleniya. Spetsifika vyyavleniya i rassledovaniya. Moskva: Izdatelstvo "Prospekt" [In Russian].

³ Ляскало А. Н. Спорные вопросы соотношения предикатных преступлений и легализации (отмывания) преступных доходов. Законодательство. 2014. № 3. с. 51-57.

⁴ Ашин Д.А. <https://cyberleninka.ru/article/n/vidy-predikatnyh-prestupleniy-v-ugolovnom-prave-rossii>.



Analyzing scientists and international conventions, we found it necessary to give the following definition:

Predicate crimes are predicate crimes that lead to the crime of money laundering.

The definition of predicate crimes is currently considered a very relevant issue, and many countries have defined predicate crimes in their national legislation based on FATF requirements.

In particular, in the states of Turkmenistan, Kazakhstan, France, Tajikistan, Kazakhstan, and Russia, all crimes specified in the criminal code are defined as predicate crimes.

As mentioned above, in Uzbekistan, the definition of predicate crimes and which crimes are included in them are not regulated by law. The report prepared in 2021 by the EAG (EvroAsiaGroup), a regional organization in the CIS under the auspices of the FATF, was also identified as a shortcoming.

Based on the above, we think that it is necessary to make appropriate changes to the Criminal Code of the Republic of Uzbekistan by defining predicate crimes and including the crimes specified in FATF recommendations as predicate crimes.

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