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THE PHENOMENOLOGY OF MONEY LAUNDERING IN UKRAINE

Abstract. The article investigates the problems of the spread of complex socio-economic phenomenon-money laundering in Ukraine. The attention is focused on the results of the fifth round of mutual evaluation of Ukraine in the sphere of AML by the Committee of the Council of Europe MONEYVAL and conclusions on the lack of effectiveness of the national mechanism of combating money laundering in Ukraine. The necessity of monitoring and conducting appropriate macroeconomic and criminological analysis on the basis of scientific knowledge of the phenomenon of «money laundering», the factors of its manifestation and spread in Ukraine. As a methodology for the study of money laundering in Ukraine as a socio-economic phenomenon, the application of phenomenology based on the combination of the philosophical method of knowledge of the phenomenon in reality based on the essential characteristics of its nature, and criminology — the doctrine of crime. The results of the survey of specialists of the law enforcement system in the field of anti-money laundering are chosen as an empirical basis. The analysis covers several groups of indicators, in particular, characterizing the spread of money laundering in the country as a whole, and the vulnerability of individual sectors of the economy. Attention is focused on the significant spread of the phenomenon of money laundering in Ukraine, as evidenced by 84.5% of respondents, and the most vulnerable is determined by the credit and financial sector (82.0%). Based on the use of a special group of indicators, the analysis of the connection of money laundering with other socially dangerous socio-economic phenomena: corruption, the shadow economy, capital flight, organized crime and the like. The article focuses on the extreme demand of corrupt officials on laundering of corruption revenues, as noted by 85.4% of respondents. It is concluded that it is necessary to introduce fundamental changes regarding the system of combating money laundering in Ukraine.

Keywords: money laundering, anti-money laundering, AML, phenomenology, expert survey, FATF, MONEYVAL, shadow economy.

JEL Classification H12, G15, G21, G28

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ФЕНОМЕНОЛОГІЯ ВІДМИВАННЯ КОШТІВ В УКРАЇНІ

Анотація. Досліджуються проблеми поширення складного соціально-економічного явища — відмивання коштів в Україні. Акцентовано увагу на результатах п'ятого раунду взаємної оцінки України у сфері ПБК Комітетом Ради Європи MONEYVAL і висновках щодо недостатньої ефективності національного механізму протидії відмиванню коштів в Україні. Зазначено на необхідності моніторингу і проведення відповідного макроекономічного й кримінологічного аналізу на основі наукового пізнання феномену «відмивання коштів», факторів його прояву і поширення в Україні. Методологією дослідження відмивання коштів в Україні як соціально-економічного явища обґрунтовується застосування феноменології, що базуватиметься на поєднанні філософського методу пізнання феномену в реальній дійсності на основі сутнісних характеристик його природи, і кримінології — учення про злочин. Емпіричною основою обрано результати анкетування фахівців правоохоронної системи у сфері протидії відмиванню коштів. Аналізом охоплюється декілька груп індикаторів, зокрема ті, які характеризують поширення відмивання коштів як у цілому по країні, так і вразливість окремих галузей економіки. Акцентовано увагу на значному поширенні феномену відмивання коштів в Україні, про що зазначає 84,5 % опитаних, а найбільш вразливою визначено кредитно-фінансову сферу (82,0 %). На основі використання спеціальної групи індикаторів здійснено аналіз пов'язаності відмивання коштів з іншими суспільно небезпечними соціально-економічними явищами: корупція, тіньова економіка, «втеча» капіталу, організована злочинність тощо. Акцентовано на надзвичайному попиті корупціонерів щодо відмивання корупційних доходів, про що зазначають 85,4 % респондентів. Зроблено висновок про необхідність запровадження фундаментальних змін щодо системи протидії відмиванню коштів в Україні.

Ключові слова: відмивання коштів, протидія відмиванню коштів, ПБК, феноменологія, експертне опитування, FATF, MONEYVAL, тіньова економіка.

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ФЕНОМЕНОЛОГИЯ ОТМЫВАНИЯ ДЕНЕГ В УКРАИНЕ

Аннотация. Исследуются проблемы распространения сложного социально-экономического явления — отмывание денег в Украине. Акцентируется внимание на результатах пятого раунда взаимной оценки Украины в сфере ПОД Комитетом Совета Европы MONEYVAL и выводах относительно недостаточной эффективности национального механизма противодействия отмыванию денег в Украине. Указано на необходимость мониторинга и проведения соответствующего макроэкономического и криминологического анализа на основе научного познания феномена «отмывания денег», факторов его проявления и распространения в Украине. На основе использования специальной группы индикаторов осуществлен анализ связанности отмывания денег с другими общественно опасными социально-экономическими явлениями: коррупция, теневая экономика, «бегство» капитала, организованная преступность и тому подобное. Акцентируется на чрезвычайном спросе коррупционеров по отмыванию коррупционных доходов, о чем отмечают 85,4 % респондентов. Сделан вывод о необходимости введения фундаментальных изменений относительно системы противодействия отмыванию денег в Украине.

Ключевые слова: отмывание денег, противодействие отмыванию денег, ПОД, феноменология, экспертный опрос, FATF, MONEYVAL, теневая экономика.

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Introduction. Today in Ukraine, issues related to combating money laundering have become more relevant and are in the center of public attention.

Research analysis. The problem of the distribution of the specified socially dangerous phenomenon, the implementation of the mechanism of counteraction of money laundering, the effectiveness of the legislation, in varying degrees, paid attention to the scientists and experts who have studied various aspects of overcoming this threat to the state of the phenomenon: Sheet L. I., Benicky A. S., Butkevich S. A., Vnukova N. M. Gajewski M. I., Glushchenko A., Golovanov N. M. Egorov, O. M., Egorov V. I., Klimenko A., Korjnevsky J. P., Kravchenko O. V., Nekrasov V. A., Perekislaw V. E., Surkalo B. I., Fadeev V.O., Feshchenko O. Yu., Charichansky O. M., Chernyavskaya S. S. and others.

At the same time, the problems related primarily not to the technical assessments of the national mechanism compliance with FATF Standards, but to the real achievements and practical results of combating money laundering [1], which in turn requires a systematic and in-depth macroeconomic and criminological analysis [2] based on scientific knowledge of the phenomenon of «money laundering», the factors of its manifestation and spread in Ukraine, are becoming relevant.

Research results. The economic growth of modern society is inextricably linked with the prevention of various threats that increase during the reform of the economic system [3; 4]. These are, first of all, such complex and dangerous for our state socio-economic phenomena as the shadow economy (especially its criminal component), organized crime, which permeates the system of economic relations, corruption at all levels of government, the «flight» of capital abroad in the presence of a shortage of investment resources, and the like [5]. A special place among these phenomena is money laundering as a mechanism for ensuring the functioning of shadow economic relations, as well as the reproduction of the economic potential of organized crime [6].

Combating money laundering (hereinafter- AML) in Ukraine is determined by one of the important areas and is ensured by the implementation of international standards in the field of AML, among which FATF recommendations occupy a Central place. Since 2002, Ukraine has objectively formed the conditions and started systematic work on combating money laundering (AML). Improvement of international standards encourages the development of legal regulation in Ukraine and the appropriate introduction of new approaches [3] to the formation of a mechanism to combat money laundering, which, in turn, requires an extremely adequate perception of the

phenomenon of «money laundering» professional environment and productive institutional activities.

At the same time, the results of the fifth round of mutual evaluation of Ukraine in the sphere of AML by the Committee of the Council of Europe MONEYVAL, which ended in December 2017, indicate the real state of the effectiveness of the AML in Ukraine, which is in this case a key component in assessing the country's compliance with FATF Standards. The efficiency assessment is aimed at [8, p. 15]:

- increased attention to the results of the FATF;
- determination of the extent to which the national AML system has achieved the objectives of FATF standards;
- identifying systemic weaknesses;
- prioritization of measures to improve the AML system.

That is, according to the «Methodology for assessing compliance with the FATF recommendations and the effectiveness of the system of counteraction of money laundering and combating the financing of terrorism» [8, p. 15] assessment of the effectiveness of AML in the country not aimed at formal compliance with the FATF Standards, which is the subject of assessment of technical compliance and practical results in the field of AML, what level of results of practical activities in the country of assessment and have been achieved the main purpose of the AML in accordance with FATF Standards.

To assess the effectiveness of FATF adopted an approach based on a hierarchy of specific results (Fig. 1).

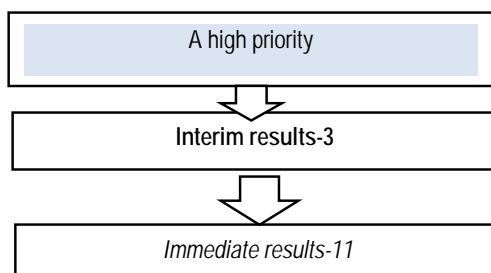


Fig. 1. The hierarchy of assessments of the effectiveness of AML on the methodology of the FATF

In order to provide a balanced overall understanding of the effectiveness of the AML system and a detailed assessment of the level (in the form of a rating) of the functioning of its components, FATF evaluates the effectiveness based on 11 «*immediate results*». Each of them represents one of the key goals which an effective system of AML is supposed to achieve. In turn, 11 «*immediate outcomes*» are grouped into three groups of «*intermediate results*», which is the main thematic purpose of the AML [8, p. 16].

Thus, the fifth round of mutual evaluation of Ukraine in the sphere of the AML Committee of the Council of Europe MONEYVAL in the efficiency of the system AML has recorded the results of [9, p. 14] according to certain 11 indicators (Table 1), of which none received a «high» rating, 2 — «significant», 8 — «moderate», 1 — «low».

This, first of all, requires a significant analysis of the situation, the study of those factors that cause the inability to effectively prosecute activities related to money laundering, etc. [10]. At the same time, the objectivity and validity of the research results require an appropriate methodological framework, the acceptability of the data used in the analysis, and the sources from which they come.

In our opinion, the methodological principles of analysis of money laundering in Ukraine as a socio-economic phenomenon is grounded in the application of phenomenology [11, p. 84] of money laundering, based on a combination of the philosophical method of cognition of phenomenon in reality on the basis of the essential characteristics of his nature, and criminology — the doctrine about a crime.

Table 1

Ratings of the effectiveness of AML in Ukraine (according to MONEYVAL)

№ z / p	Intermediate result	№ z / p	The immediate results of the effectiveness of AML	Level of efficiency
1.	Policy, coordination and cooperation reduce the risks of money laundering	1.	<i>ML risks are understood and, where necessary, actions are coordinated at the national level</i>	<i>significant</i>
		2.	<i>International cooperation provides relevant information and contributes to AML</i>	<i>moderate</i>
2.	The entry of criminal money and funds in support of terrorism into financial and other sectors has been prevented or identified and reported in these sectors	3.	<i>The Supervisory authorities shall exercise due supervision in accordance with the risks</i>	<i>moderate</i>
		4.	<i>Financial institutions adequately apply AML preventive measures in accordance with risks</i>	<i>moderate</i>
		5.	<i>Legal entities are protected from their use in the ML</i>	<i>moderate</i>
3.	Threats and money laundering are detected and eliminated, criminals are punished and deprived of illegal income ...	6.	<i>Financial and other data are used by the competent authorities for investigation in AML</i>	<i>significant</i>
		7.	<i>Crimes with ML are investigated, and criminals are prosecuted and subject to effective sanctions</i>	<i>low</i>
		8.	<i>Proceeds and proceeds of crime shall be confiscated</i>	<i>moderate</i>
		9.	<i>Crimes and activities to investigate the financing of terrorism are investigated</i>	<i>moderate</i>
		10.	<i>Terrorists and terrorist organizations do not have the ability to collect and use funds</i>	<i>moderate</i>
		11.	<i>Individuals and legal entities are prevented from collecting and using funds for the proliferation of weapons of mass destruction</i>	<i>moderate</i>

The analysis of any negative socio-economic phenomenon using official statistics is quite understandable. At the same time, among the domestic law enforcement specialists, foreign experts of the EU Advisory mission, there is a well-established understanding of the inadequate mapping of the crime rate according to the Unified register of pre-trial investigation (URPTI), which does not allow to objectively assess illegal money laundering activities in Ukraine. Among other things, when assessing MONEYVAL regarding the technical compliance of the AML system in Ukraine, the «Statistics» indicator (*FATF recommendation 33: countries should keep comprehensive statistics on issues related to the effectiveness of the anti-money laundering system ...*) defined in such a way that only «partially meets» recommendations [9].

In order to analyze the level of money laundering in Ukraine and a set of related socio-economic factors, an expert survey was conducted among specialists in the field of law enforcement with a target professional direction to combat money laundering [12; 13; 14]. A survey of experts is a fairly common method of obtaining information about the problem from specialists of the relevant profile. Among the respondents, three groups of experts working in law enforcement agencies, professionally engaged in the detection and investigation of money laundering and possess a large amount of knowledge in comparison with the majority of non-specialists in the field of money laundering: operatives (547 people), investigators (245 people) and prosecutors (213 people). A total of 1005 respondents were interviewed and all the data are structured and systematized, which allows for a more in-depth study and evaluation of the specific content characteristics of the phenomenon of «money laundering».

At the same time, a questionnaire developed in a single form for all experts was used. The questionnaire was developed by a task force of experts (5 people), who, using the method of «brainstorming» identified a General set of indicators that systematically and variously characterize the phenomenon of «money laundering» in Ukraine. Measurements of respondents' positions on each of the indicators were carried out on a four-point ordinal scale, where the lowest score characterizes the zero level, and the highest — the highest (*Table 2*). In addition, in the future, in order to interpret the results we will use the term «significant level», when grouping data of high and medium levels.

Table 2

Results of the expert survey on indicators characterizing the phenomenon of money laundering in Ukraine

NZ / n	Indicator name	Level of assessment			
		Highly (%)	Average (%)	Low (%)	Zero (%)
1.	The level of money laundering (ML) in Ukraine	55.7	28.8	14.1	1.0
2.	Level of vulnerability of economic sectors to ML:	X	X	X	X
2.1	credit and financial	41.1	40.9	15.2	1.3
2.2	agro-industrial complex (AIC)	29.9	45.8	20.4	1.4
2.3	construction	41.4	38.2	15.8	2.4
2.4	transport	31.2	42.7	21.2	2.4
2.5	PITCH	35.6	40.4	19.4	2.0
2.6	realty	35.0	39.1	20.7	2.4
3.	The level of connectedness of the ML with:	X	X	X	X
3.1	corruption (the demand of the corrupt officials to the laundering of corruption assets)	50.6	34.8	11.6	1.3
3.2	corruption (corruption links are an important element in ensuring ML mechanisms)	48.7	34.8	13.4	1.2
3.3	organized crime (fixed assets demand for money laundering))	43.1	36.5	17.3	1.2
3.4	«thief in law»	29.8	38.7	25.9	2.9
3.5	capital flight abroad	45.9	33.7	16.9	1.8
3.6	the provision of shady activities in their own business	42.5	36.9	16.8	1.9
3.7	the need to legalize part of the shadow income of legal business	42.9	37.6	16.1	1.9
3.8	the need to launder «dirty» assets and hide previous criminal activities	43.8	35.5	15.8	2.4

First of all, describing the overall level of money laundering in Ukraine, 55.7 % of respondents determine the high level of the phenomenon of money laundering in Ukraine (Fig. 2). And given the fact that the expert survey involved professionals directly and professionally engaged in professional activities in the field of AML, it is impressive that the vast majority of them (84.5 % (55.7 % — high, 28.8 % — average) note the significant spread of this phenomenon in Ukraine.

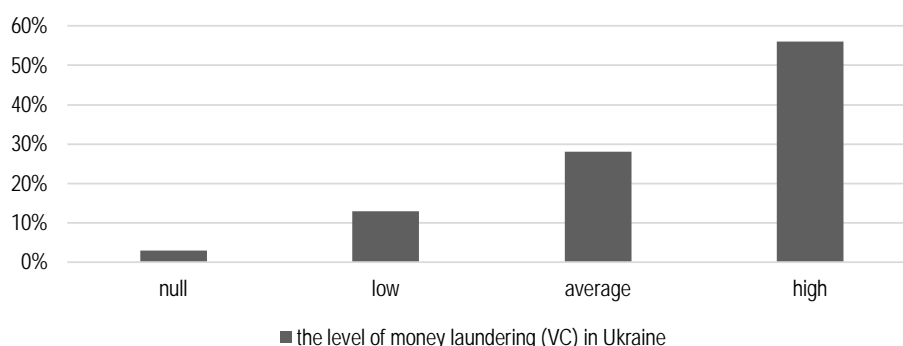


Fig. 2. Diagram of the level of money laundering in Ukraine

Source: according to the expert survey

The next group of indicators characterizes the spread of money laundering at the level of certain sectors of the economy in Ukraine (Fig. 3), in particular, the credit and financial sector, agro-industrial and fuel and energy complexes, construction, transport and real estate market.

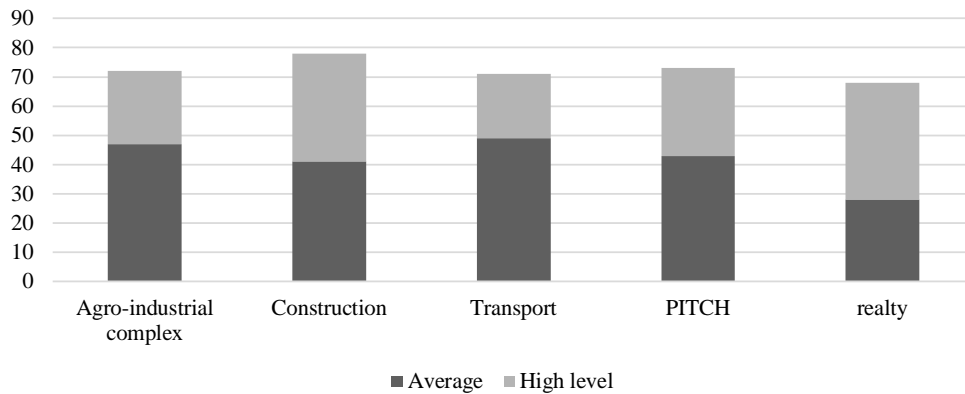


Fig. 3. Diagram of the level of vulnerability of sectors of the economy to money laundering in Ukraine
 Source: according to the expert survey

The overall trend is also quite significant from 82.0 % to 73.9 %. At the same time, the most vulnerable to the spread of money laundering is the credit and financial sector (41.1% - high, 40.9 - medium).

A separate group of indicators focuses on the connection of the phenomenon of money laundering with other negative socio-economic phenomena in Ukraine: the shadow economy, corruption, organized crime and capital flight from the country (Fig. 4).

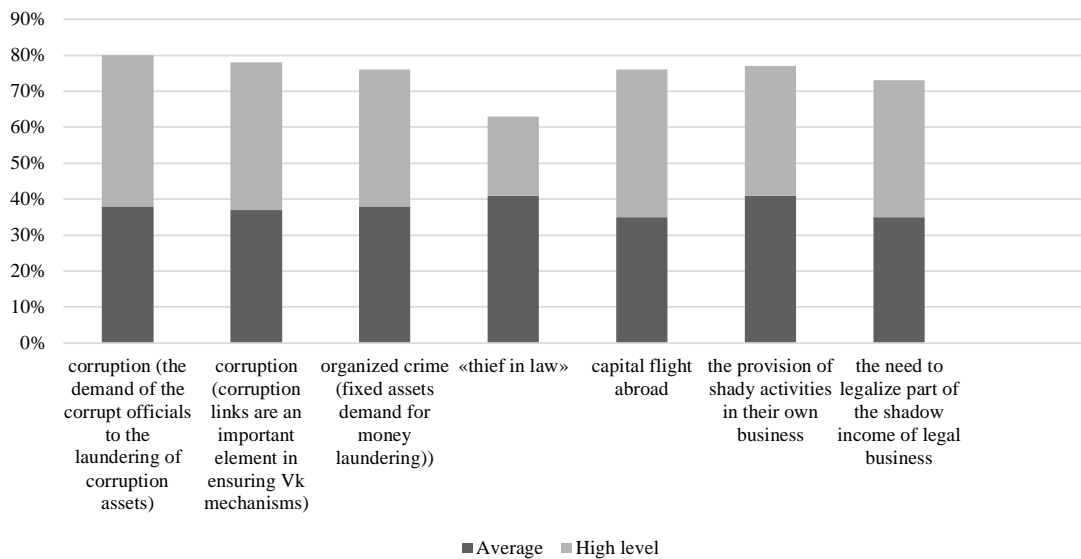


Fig. 4. The diagram of the connection of money laundering with other negative socio-economic phenomena
 Source: according to the expert survey

First of all, it should be noted the extraordinary demand of corrupt officials laundering the proceeds of corruption, what say 85,4 % of the respondents. At the same time, corruption ties are defined as an important means of ensuring money-laundering mechanisms somewhat less (83.5 %), but in General, significant.

Already familiar to Ukraine is the problem of flight abroad assets and 79.6 % of experts this phenomenon is associated with money laundering.

Following in the General trend of the experts interviewed, the laundering of funds associated with the shadow economy, as with the provision of informal economic activities (79,4 %), and the necessity of legalization of shadow income, and involvement in legal turnover (80,5 %).

In conclusion, the experts surveyed determine the connection of money laundering with illegal activities, in particular, the most dangerous manifestations: organized crime —79.6 %,

characterizing the demand of organized criminal groups for money laundering, and the need to launder «dirty» assets and concealment of preliminary criminal activities (79.3 %).

Conclusions. The analysis, as noted, is not final. The problem requires a deep enough research using a wider array of data and information, the use of modern methods and tools of analysis.

Corruption is one of the major ML threats in Ukraine generating substantial amounts of proceeds. The public administration, particularly the civil service, judiciary, the prosecution and the police, are especially vulnerable to corruption. Inextricably linked to fictitious entrepreneurship are the so-called conversion centres, which present a key ML risk. Such centres are used by individuals to take proceeds out of Ukraine or to convert proceeds into cash. Organised crime is also a factor with a substantial impact on the overall ML risk situation in Ukraine. International Organised Crime Groups (OCGs) recently have shown a growing interest in Ukraine in the spheres of ML and trafficking in human beings (THB), weapons, hazardous materials and narcotic substances. The growing presence of organised crime in Ukraine has also been reinforced by the high corruption levels within the state services. In fact, corruption has helped feed the upsurge of organised crime and its extension into politics. Linkages between political and administrative elites and criminals are not a rare phenomenon. As a result, the Ukrainian state faces difficulties to function effectively.

The materials of the survey of experts used in the study are indicative, which in General form a fairly balanced opinion about the insufficiently effective 15-year history of the formation of the national system of combating money laundering and the need for fundamental changes in this regard.

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