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## **JURISDICTION OF STATES REGARDING THE CASES OF LEGALIZATION OF CRIMINAL INCOME**

**Submission Date:** July 20, 2023, **Accepted Date:** July 25, 2023,

**Published Date:** July 30, 2023

**Crossref doi:** <https://doi.org/10.37547/ijlc/Volume03Issue07-18>

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### **ABSTRACT**

The article focuses on international standards and foreign experience in criminal liability for crimes committed by foreign nationals and stateless persons in the territory of another state, the results of research conducted by scientists and the analysis of national legislation.

### **KEYWORDS**

shadow economy, money laundering, jurisdiction, FATF, predicate offenses, foreign citizen, stateless persons, criminal prosecution, transnational crimes, criminal liability.

### **INTRODUCTION**

In the next Address of the President of the Republic of Uzbekistan Shavkat Mirziyoyev to the Oliy Majlis on January 24, 2020, he emphasized that healthy competition and a favorable investment environment will not be formed unless the "hidden economy" that seriously hinders reforms is eliminated.

Indeed, the negative impact of the "hidden economy" on the normal functioning of the country's economy cannot be ignored.

The presence of a private sector in the country's economy requires a special approach to solving this problem.

According to the World Bank, in 2019, the share of the underground economy in the gross domestic product in Uzbekistan was 52.1 percent.

If these indicators are compared, in Central Asian countries, in particular, it reached 40.7% in Tajikistan, 36.6% in Kazakhstan, and 30.5% in Kyrgyzstan.

The share of the hidden economy is 8.0% in the United States, 36.5% in Brazil, 21.7% in Spain, 19.5% in Italy, 18.4% in Korea, 14.5% in China, 10.2% in Germany, 9.6% in the UK, 9.0% in Australia, 8.6% in Singapore and 8.1% in Japan.

According to the results of the research, it is known that the legalization of proceeds from criminal activities has a transnational nature, and it was observed that a large flow of criminal proceeds enters the countries with a high "attractiveness" index for legalization of criminal proceeds.

At this point, the above opinion is stated in the report prepared by the Organization for Economic Cooperation and Development on the underground economy, that the level of spread of economic crimes has a direct impact on the scale of the underground economy, which, in turn, not only threatens the economy of a single country, but also undermines the economic and financial stability of the world community.

Money laundering has become an international crime today.

Factors such as the rapid development of modern information and communication technologies, the improvement of the international money transfer system, and the emergence of virtual money make this type of crime an urgent problem at the international level.

This, in turn, requires the development of international cooperation in the fight against such crimes, the study of foreign experience in this field.

International standards set relevant norms for the prosecution of crimes committed by economic and organized groups.

In particular, Article 15 of the United Nations Convention against Transnational Organized Crime stipulates that each state should take appropriate measures to determine its jurisdiction over money

laundering and corruption crimes committed by an organized group.

According to this rule, states determine their jurisdiction based on the principle of territoriality in the following cases:

a) if the crime was committed on the territory of this state;

(b) the offense was committed on board a ship flying the flag of that State or on an aircraft then registered under the laws of that State.

States shall fulfill their obligations under this Convention in accordance with the principles of sovereign equality and territorial integrity of States and non-interference in the internal affairs of other States.

In this context, it is envisaged to determine the jurisdiction of the states for the following crimes:

a) if the crime was committed against a citizen of this state;

b) when the crime is committed by a citizen of this country or a stateless person residing in this country;

c) crime:

- If it is considered one of the crimes committed as part of a criminal group, provided for in paragraph 1 of Article 5 of the Convention, and committed outside its territory with the purpose of committing a serious crime;

- In connection with the crime of money laundering provided for in Article 6 of the Convention, committed outside its territory for the purpose of committing a serious crime.

Бундан ташқарида Конвенция нормалари транснационал характерга эга бўлган бошқа турдаги жиноятларга нисбатан ҳам қўлланиши белгиланган.

In addition, it is determined that the norms of the Convention are applied to other types of crimes of a transnational nature.

According to the recommendations of the Financial Action Task Force on Combating Money Laundering (hereinafter - FATF) , countries should cover the main crimes as widely as possible in order to apply the concept of the crime of money laundering to all serious crimes.

In this case, it is possible to include all crimes as main (predicate) crimes, or based on the degree of severity of crimes or the type of crimes punishable by deprivation of liberty, into the category of serious crimes or crimes that are punishable by deprivation of liberty, as well as determine the list of main crimes, or these approaches combination can be used.

The main crimes related to the legalization of criminal proceeds, when committed in another country, should be considered as criminal acts in that country, and if committed in the country's territory, they should be considered as the main crime.

According to this recommendation, countries should be able to prosecute even if crimes are committed on the territory of another country.

At this point, we will consider the territorial prosecution of this type of crime based on the JK of the Republic of Uzbekistan.

In particular, according to Article 11 of the Criminal Code:

a) started, completed or terminated in the territory of Uzbekistan;

b) if it was committed outside the territory of Uzbekistan, and the criminal consequences occurred in the territory of Uzbekistan;

c) if it was committed in the territory of Uzbekistan, and the criminal consequences occurred outside the territory of Uzbekistan;

g) consists of several acts or is committed together with other acts, if a part of it takes place on the territory of Uzbekistan, it is considered a crime committed on the territory of Uzbekistan.

If a crime is committed in an air, sea or river vessel under the flag of Uzbekistan or registered in the port of Uzbekistan, outside the territory of Uzbekistan and in a place that is not considered the territory of a foreign country, such crime shall be prosecuted according to this Code.

If the issue of responsibility of foreign citizens in accordance with the current laws, international treaties or agreements does not belong to the courts of the Republic of Uzbekistan, they will be resolved in accordance with the norms of international law if they committed a crime on the territory of the Republic of Uzbekistan.

According to the interpretation of the above norms, criminal prosecution of the acts committed on the territory of Uzbekistan is clearly defined, regardless of the category of subjects who committed the crime.

Similarly, Article 12 of the Criminal Code defines the issue of responsibility of persons who commit crimes outside the territory of Uzbekistan.

For example, citizens of the Republic of Uzbekistan, as well as stateless persons permanently residing in Uzbekistan, are held liable under this Code if they have not been punished by the judgment of the court of that state for a crime committed on the territory of another state.

A citizen of Uzbekistan may not be detained for a crime committed on the territory of a foreign country, unless otherwise provided for in international treaties or agreements.

Foreign citizens, as well as stateless persons who do not permanently reside in the territory of Uzbekistan, are held responsible for crimes committed outside the territory of Uzbekistan only in cases stipulated by international agreements or agreements under this Code.

The concepts of "international agreement" and "agreement" used in the above paragraph are explained in a general way, and agreements and agreements that have not been ratified by the Republic of Uzbekistan may also be included in its scope.

For this reason, it is appropriate to identify cases in which foreign citizens, as well as stateless persons who do not permanently reside in the territory of Uzbekistan, will be held criminally liable for crimes committed outside the territory of Uzbekistan.

According to Article 22 of the Constitution of the Republic of Uzbekistan, "The Republic of Uzbekistan guarantees legal protection and patronage of its citizens both inside and outside its territory. "The current edition of this article does not envisage the possibility of criminal law being applied by citizens of the Republic of Uzbekistan to foreign citizens or stateless persons who do not permanently reside in

Uzbekistan, as well as actions that attack other interests of the Republic of Uzbekistan.

In cases where foreign contracts and agreements are not formalized according to the interpretation of the national legal norms described above, it creates problems in determining responsibility and criminal prosecution for crimes committed outside the territory of Uzbekistan by foreign citizens and stateless persons.

Therefore, we will consider the experience of foreign countries and the scientific conclusions of researchers on this issue.

If we look at the legal practice of foreign countries in this regard, we can see that the scope of responsibility of foreign citizens and stateless persons who do not permanently live in the country is strictly defined.

For example, according to Article 12 of the Criminal Code of the Russian Federation (hereinafter referred to as the RF), foreign citizens and stateless persons who have committed a crime outside the RF and are not permanent residents of the RF, if the crime is directed against the interests of the country or its citizens, are subject to criminal charges according to this Code. is determined to be held accountable.

A stateless person permanently residing in the Russian Federation, as well as in the cases stipulated in an international agreement or another international document containing obligations in the field of relations regulated by the Code, if foreign citizens and stateless persons who do not permanently reside in the Russian Federation, are subject to criminal liability in the Russian Federation, if they have not been convicted in a foreign country.



In order for this norm to be applied in the Republic of Kazakhstan, it is required that a person has not been charged with a criminal offense in a foreign country, and that this act is considered a crime in the Russian Federation.

In paragraph 4 of Article 8 of the Criminal Code of the Republic of Kazakhstan, foreign citizens, as well as stateless persons who do not permanently reside in the territory of the Republic of Kazakhstan, have committed a crime outside the Republic of Kazakhstan, if this act is directed against the interests of the Republic of Kazakhstan, if they have not been tried in another country Kazakhstan In the territory of the Republic, it is determined to be brought to criminal responsibility.

In addition, the criminal code of the Republic of Kazakhstan establishes the prosecution of crimes of a terrorist, extremist nature, or crimes against the peace and security of humanity, or crimes related to serious harm to the interests of the Republic of Kazakhstan in any other way, regardless of the place of crime, citizenship.

Rules similar to these norms exist in the criminal legislation of Germany, France, Korea, Japan, and Armenia.

According to the Russian researchers Yu.S. Romashev and D.V. Fetishchev, who conducted scientific research in this field, based on this principle established by international standards, certain actions that are considered crimes under the jurisdiction of the state are committed outside its territory by persons who are not citizens of this state. related to the cases.

S.M. Kochoi also expressed an opinion on the establishment of universal responsibility for criminal

acts committed by foreign citizens and stateless persons.

The above norm of the criminal law creates problems in the implementation of criminal prosecution against foreign citizens and stateless persons for crimes committed against citizens of the Republic of Uzbekistan or state interests on the territory of a foreign state.

In particular, the non-signing of agreements on international legal cooperation with countries, as well as the lack of strict determination of the issue of jurisdiction in national legislation, excludes the initiation of criminal cases against foreign citizens and stateless persons, and the sending of criminal case materials to a foreign country for criminal prosecution.

This leads to non-implementation of international standards, particularly the rules of jurisdiction established in FATF recommendations, and is evaluated as a negative indicator in the study of the effectiveness of the national system.

As noted, taking into account that the large-scale crime of money laundering does not only threaten the economy of a single country, but also undermines the economic and financial stability of the world community, it is proposed to include the following norms in Article 12 of the Criminal Code:

When foreign citizens, as well as stateless persons permanently residing in the territory of Uzbekistan, have not been punished by the judgment of the court of that state for crimes committed outside the territory of Uzbekistan, when they commit crimes against the interests of the Republic of Uzbekistan, citizens of the Republic of Uzbekistan or stateless persons permanently residing in the territory of Uzbekistan, international law of the Republic of Uzbekistan shall be

held criminally liable in the cases stipulated in the contracts.

The implementation of these suggestions will help in timely detection and identification of criminally obtained money and other assets, prevention of new crimes, establishment of international cooperation and efficiency in stopping the activities of criminal groups.

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