MONEY LAUNDRY IN BOSNIA AND HERZEGOVINA AND INTERNATIONAL STANDARDS

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Abstract: *Today, crimes directed against the property of other natural and legal persons prevail in the structure of national, as well as international crime, where individuals, groups and entire organizations commit their criminal activities lead by the intention to acquire illegal property gain. However, this is not enough, so these persons try to legalize such acquired money and other property gain, i.e. to put them in legal traffic. On the other side, perpetrators of such crimes have a need to cover real source of such money or benefit. Therefore, not only states, but the whole international community, have recognized danger from such crimes of individuals and groups whose aim is money laundry and hiding of money and other property gain acquired by commission of criminal offenses. Accordingly, international law, as well as criminal law of Bosnia and Herzegovina, foresee criminal responsibility for money laundry as criminal offense threatened by severe punishments.*

Key words: *criminal offense, money, guilty, punishment, international standards.*

1.Introduction

Modern society is characterized by great dynamism in the structure of national as well as international crime, where property crimes predominate, which are primarily managed at the expense of property, property rights and interests of other natural and legal persons (and even entire states). In doing so, individuals, groups, and even organizations act in pursuit of their criminal activity, guided primarily by property interests - with the intention of obtaining unlawful material gain or illicit profit, profit, and therefore power. But this is not enough, nor is the primary aim of criminals. It is logical that acquired illicit property gain, if hidden, in the sphere of illegal activity, is irrelevant to the perpetrators of such crimes (Levi, William, 2002: 337–364).

Therefore, they are compelled to acquire so-called "dirty", illegally acquired property and other forms of property benefits "opera", to give them a legal basis of acquisition, to place them in legal economic, monetary, banking, stock exchange and other similar flows. This means that, through criminal activity, the money and other types of material gain obtained by these persons are trying to legalize, or put them into legal circulation, circulation. On the other hand, the perpetrators of such crimes have the need to conceal the true origin of such "dirty", illegally obtained money or benefits, and thus avoid prosecution and punishment. Recognizing the dangers of such criminal activities by individuals and groups aiming at money laundering and concealment and other material gain gained through the commission of criminal offenses, international and national law provide for the criminal liability and punishment of perpetrators for the criminal offense of "money laundering".

In order to prevent, suppress and reduce to a socially acceptable level the various illegal activities of individuals and groups, within the framework of international, transnational, organized, cross-border crime, internationally, the standardization of the rights and obligations of individual countries in taking adequate measures, resources and procedures to prevention and suppression of money laundering. Thus, several international legal acts were adopted (Petrovic, Jovasevic, 2010: 89-92) specifying illicit activities and certain forms and types of money laundering, as well as measures, organs and actions in individual national legislations in order to create a suitable legal basis for prevention and suppressing this negative social phenomenon. Thus, in international and European criminal law, money laundering has acquired the status of an independent crime.

2. Money laundering and international standards

Realizing the real danger of organized crime of an international character that does not know the political, state and ideological boundaries between nations and states, the international community has developed a strategy to combat the most dangerous form of modern crime - trafficking in narcotic drugs, nuclear substances, people, women and children, organs for transplantation, weapons, etc. which is closely related to money laundering. In this regard, several international legal acts have been adopted, such as: 1) UN Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (1988, Vienna), 2) Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime (1990 Strasbourg), 3) Directive for the Prevention of Money Laundering (1991); 4) Communiqués resulting from the agreement of the Heads of Government of the Commonwealth (1993, Cyprus). On this occasion, money laundering was identified as a serious threat to the financial system worldwide, 5) the UN Convention against

Transnational Organized Crime (2000, Palermo), 6) the International Convention for the Suppression of the Financing of Terrorism (1999 in New York), and 7) the Council Convention Europe on the laundering, search, seizure and confiscation of proceeds of crime and on the financing of terrorism (2005, Warsaw) (Degan, Pavišić, 2005: 197-203). These international legal acts are the legal basis for prescribing criminalized behaviors related to money laundering in national criminal legislation, as well as criminal sanctions for their perpetrators (Jovasevic, Ikanovic, 2015: 111-115).

2.1. UN Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances

The 1988 Vienna Convention on Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (Vienna Convention) (also accepted by the former SFRY) provides for an obligation on States parties to carry out activities related to drug trafficking and the laundering of money acquired in their national legislation. predict as a felony. This convention provides the precondition for effective combating of money laundering, which is its criminalization in a manner sensitive to the demands of the international community. This significant international document has set minimum standards for states' engagement in combating these phenomena.

Article 3 of the Vienna Convention defines the criminal offense of money laundering. It exists when the following activities are intentionally (knowingly and intentionally) undertaken: a) conversion or transfer of property with the knowledge that such property was the result of a criminal offense with a view to concealing the illegal origin of the property, b) assisting any person involved. the commission of such a crime in order to avoid the legal consequences of these activities, c) concealment or concealment of the true nature, source, location, disposition and movement of derived property or property rights with the knowledge that such property is the result of the crime committed, d) acquisition, possession or the use of goods, items or other value with knowledge at the time of their receipt that they were the result of unauthorized trafficking in narcotic drugs, and e. money.

In this way, the criminal offense of money laundering is defined by various activities (at home and abroad) which include preparatory actions, attempt and complicity (inciting, aiding or organizing a criminal association), as independent actions of execution. This broadly sets out a sphere of punishable behavior that is equated with the act of committing this crime. An essential, constitutive element of the criminal offense of money laundering is the existence of "knowledge, consciousness, intention or purpose", as subjective elements of a psychological nature on the side of the perpetrator at the time of the crime.

2.2. UN Convention against Transnational Organized Crime

The Palermo Convention on the Transnational Organized Crime of 2000, with its additional protocols: a) the Protocol for the Prevention, Suppression and Punishment of Trafficking in Human Beings, Especially Women and Children, and b) The Anti-Smuggling Protocol also addressed the problem of taking effective measures to prevent and combat money laundering. migrants by land, sea and air. This convention, in Article 6, entitled “Criminalization of the laundering of proceeds of crime”, defines the concept and characteristics of the crime of money laundering (Novoselec, 2004: 3-5). This is logical because in the criminal literature it is often pointed out that one of the basic features of organized crime is precisely the money laundering of members of a criminal group illegally obtained through the

commission of criminal activities. The following are mentioned as methods of money laundering: a) manual laundering - when members of the group use smaller sums of money to buy goods and pay for the needs of a criminal organization, b) family money laundering machine - when the group launders money through banks and other financial organizations c) shared laundry machines - when multiple criminal organizations, in collaboration with banking, financial, stock exchange and other institutions, organize money laundering as a permanent activity and laundry - when organized crime groups offer local criminals or smaller groups "service" for money laundering. " Article 7 of the Palermo Convention also provides for a system of measures to combat money laundering.

3. Money laundering in European documents

Regional European organizations have also become involved in organized international activity in preventing and combating various forms and forms of committing a criminal offense of money laundering. These activities are led by: a) the European Union and b) the Council of Europe. Within and under the auspices of the Council of Europe, extremely important acts have been adopted defining the concept and elements of money laundering as a criminal offense. They also require all Member States of this regional organization to incorporate into their national criminal law the characteristics of the creatures of this crime and to determine the type and measure of punishment for its perpetrators.

3.1. Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime

In 1990, the Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime was adopted by the Council of Europe in Strasbourg. In addition to the conceptual definition of money laundering as a criminal offense, this Convention provides for a series of general and specific prevention measures to be applied by the competent state authorities to prevent and suppress the activities of individuals and groups for the purpose of laundering illicitly acquired property, or concealing its origin and source. Later in 2005, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Crime Proceeds and on the Financing of Terrorism was adopted in Warsaw in 2005.

The characteristics of the criminal offense of money laundering have been defined in almost identical terms to those of the Vienna Convention in the acts of the Council of Europe. The only difference is foreseen in the regional act, which seeks to seize and confiscate any property gain acquired not only by illicit drug-related activities, but also by other types of serious crimes such as: a) terrorism, b) trafficking in white slaves, c) arms trafficking and) high-profit offenses. In addition, in the European (Strasbourg) Convention, the concept of "dirty money" was defined as the illicit proceeds of any crime, thus significantly expanding this term, previously given in the Vienna Convention. Article 6 of the European Convention provides that the criminal offense of money laundering consists in the deliberate pursuit of one or more of the following activities: is involved in the commission of a predicate offense to avoid the legal consequences of his acts, b) concealing or misrepresenting the legal nature, source, location, use, movement, rights or property of the property - knowing that the property constitutes proceeds of crime; c) the acquisition, possession or use of property with knowledge at the time of receipt that such property constitutes proceeds of the offense;

For the purposes of the application of this Convention, a predicate offense is one that

has been obtained by a proceeds of illegality which may be the subject of money laundering. Namely, money laundering also appears as a "subsidiary" crime because its existence is dependent on a previously committed other crime whose perpetrator is motivated by the intent to obtain unlawful material gain or other illegal gain. In the legal theory, the need to criminalize money laundering is considered to be the result of the inability of the state (and the entire international community) to effectively counter crime, especially organized transnational crime, which has enormous financial power.

3.2. Warsaw Convention

Finally, in 2005, the Council of Europe adopted the new Convention on Money Laundering, Investigation, Confiscation and Confiscation of Profit from Crime and the Financing of Terrorism. The preamble to this convention explicitly states "that in the modern world it is necessary to combat serious crimes that are becoming a serious international problem and which require modern and efficient methods at the international level." In Article 1 of the Convention, the term "profit" is defined as directly or indirectly obtained, through the commission of criminal offenses, property in the sense of tangible and intangible, movable or immovable property, securities or assets which speak of ownership or interest in such property.

Article 9 defines the crime of money laundering in the same way as the 1990 European Convention. The novelty of the earlier rulings is reflected in the fact that criminal prosecution for the criminal offense of money laundering can be undertaken irrespective of the fact that the perpetrator was previously convicted of a predicate crime from which unlawful profit arose.

3.3. Money Laundering Directives

The European Union has also joined the international community in combating money laundering. Two Directives of the Council and the European Parliament are particularly relevant in this respect: a) Directive (91/308 / EEC) of the European Communities on the prevention of the use of the financial system for the purpose of money laundering in 1991 and b) Directive (2001/97 / EEC) supplementing the Directive Of the Council of the European Communities on the prevention of the use of the financial system for money laundering in 2001 (Pavišić, Bubalović, 2013: 128-131).

The Council of the European Communities Directive (91/308 / EEC) on the prevention of the use of the financial system for the purpose of money laundering of 1991 (known as the "Money Laundering Directive") promoted a preventive approach to the prevention of money laundering and imposed a number of financial and credit institutions obligations and measures that should ensure timely and effective detection and proof of various forms and types of money laundering in economic activities that would "ensure the integrity and integrity of the financial system". The directive starts from the fact that "money laundering occurs not only in terms of drug proceeds, but also in proceeds from other criminal activities." The preamble to this directive emphasizes that it is necessary to treat the problem of money laundering at European Union level, since the existence of a single market and the free movement of capital and services can be used to launder money resulting from criminal activity. It is therefore necessary to adopt at Union level certain measures that will enable coordinated action by Member States. This engagement is in the interest of both the individual countries and the general interest of the Union, because when financial and credit institutions are used to launder money resulting from criminal

activity, the stability of those institutions, as well as confidence in the financial system as a whole, are seriously compromised.

Article 1 of the Directive defines the concept of money laundering (Jovasevic, 2011a: 617-619) as "act done intentionally in the form of: a) conversion or transfer of property with the knowledge that it was acquired through criminal activity or engaging in such activity for the purpose of concealment or masking the unlawful origin of the property or assisting any person involved in the conduct of such activity to avoid the legal consequences of such an act; b) concealing or masking the true nature, source, location, disposition, movement and rights of ownership of the property with the knowledge that that property is acquired through criminal activity or participation in such activity, c) acquisition, possession or use of property with knowledge at the time of its acquisition that it was acquired through criminal activity or participation in such activity and d) associating with other persons, attempting to act or aiding, inciting , to facilitate or cover up any of the foregoing actions.

Given the international character of money laundering, it is of great importance for the effective functioning of international cooperation that the Directive provides that money laundering will be treated as a criminal offense even when activities resulting in assets to be laundered have been undertaken in the territory of some other Union Member States as well as in the territory of a third country. This approach to providing international legal assistance was fully taken from the 1990 European Convention, which also required signatory states to adopt an extraterritorial approach in the field of combating money laundering - unlike the Vienna Convention, which was not aware of this approach. After all, such efforts fit into solidarity among states in combating and preventing the most dangerous forms and forms of crime, especially of an organized character.

The Second Protocol to the Convention on the Protection of the Financial Interests of the European Communities (OJC316) of 1995, which requires the criminalization of the laundering of proceeds of financial evasion and other criminal offenses, is treated in the same way in defining the concept, elements and characteristics of money laundering as an independent offense. types. Of particular importance in the activities of the European Union is the Joint Action of 3 December 1998 on money laundering, identification, detection, seizure and confiscation of proceeds of crime and the means to obtain them.

In the meantime, several recommendations or framework decisions have been made within the European Union to intensify activities aimed at preventing and combating money laundering: a) the Protocol on Criminal Liability for Legal Entities, Property Confiscation and Money Laundering of 19 July 1997 (OJC221), b) Council Framework Decision of 29 May 2000 on strengthening the protection of penalties and other sanctions for counterfeiting money with a view to the introduction of the euro (OJL140), c) Council Framework Decision of 28 May 2001 on combating fraud and non-cash means of payment (OJL69), d) Council Framework Decision of 26 June 2001 on the laundering, identification, retrieval, freezing, confiscation and confiscation of criminal offenses (OJL182) and d) Council Framework Decision of 22 July 2001 2003 on the Prevention of Corruption in the Private Sector (OJL192).

Finally, Directive (2001/97 / EEC), which complements the 2001 Council Directive of the European Communities on the prevention of the use of the financial system for the purpose of money laundering, starting from the fact that 'money laundering has a clear impact on the rise of organized crime and the fight against laundering it must lead mainly to penalties and within the international cooperation of

judicial and other law enforcement authorities, "Article 1 defines money laundering in an identical manner, as does the 1991 Directive. The primary objective of this Directive is to modernize international anti-money laundering instruments and to establish high standards of protection for the financial sector.

The concept of money laundering is given in Article 1 of this Directive: as intentionally committing the following activities: a) conversion or transfer of property known to originate from a criminal activity or from any act of participation in such activity for the purpose of concealing or misrepresenting the unlawful origin of property , b) assisting any person involved in the performance of such an activity to avoid the legal consequences of their activity, c) concealing the true nature, source, location, disposition, movement of rights, or ownership of property known to have originated from criminal activity or the act of participation in such activity, d) the acquisition, possession or use of property known at the time of its receipt that the property originates from a criminal activity or the act of participation in such activity, and e) participation in the execution, association for the purpose of execution, attempted execution, aiding and abetting , encouraging, contributing, or advising to carry out any of the activities listed.

Criminal activity, within the meaning of this directive, which acquires property (which is the subject of money laundering), is considered to be any form of participation in the commission of a serious criminal offense. In doing so, this serious crime is linked to the concealment (disguise) of material gain obtained by any kind of criminal involvement in the commission of serious crimes, among which (in addition to the offenses provided for in Article 3 of the 1988 Vienna Convention), the following offenses: a) fraud defined in Art. 1 and 2 of the Convention on the protection of the European Communities' financial interests; b) corruption; and c) misdemeanors that can generate substantial revenue, punishable by serious prison sentences in accordance with the criminal law of the Member States of the Union.

A milestone in the further activities of the European Union in opposing the various forms and types of organized crime in general, and in particular corruption and money laundering, is the adoption of the 1995 Convention on the Protection of the European Union's Financial Interests with two additional protocols of 1996 and 1997 (Jovasevic, 2017: 212-214).

4. Money Laundering in the Law of Bosnia and Herzegovina

Money laundering - accountability and punishment - in the positive law of Bosnia and Herzegovina is governed by several legal regulations. These are: a) the Criminal Code of Bosnia and Herzegovina and b) the Law on Prevention of Money Laundering and Financing of Terrorist Activities.

4.1. Money laundering in the Law on Prevention of Money Laundering and Financing of Terrorist Activities

The Law on Prevention of Money Laundering and Terrorist Activities of 2014 stipulates: a) measures, actions and procedures in the financial and non-financial sectors that are undertaken with the aim of preventing and detecting money laundering and the financing of theoretical activities; b) persons obliged to implement measures, actions and procedures which are obliged to act in accordance with this Law; c) supervision of taxpayers in the implementation of measures, actions and procedures in financial and non-financial operations undertaken to prevent money laundering and terrorist financing; d) the tasks and responsibilities of the Financial Intelligence Division of the State Investigation and Protection Agency (SIPA

FID); e) inter-institutional cooperation between the competent authorities of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska and the Brcko District of Bosnia and Herzegovina, and other levels of the State organization of Bosnia and Herzegovina in the prevention of money laundering and terrorist financing; f) international co-operation in the field of money laundering and terrorist financing, and g) tasks, competencies and procedures of other bodies and legal entities with public authority in the prevention of money laundering and terrorist financing in B&H.
In Article 2, this law defined money laundering as: 1) the replacement or transfer of property, if such property was obtained through criminal activities, with the purpose of concealing or concealing the unlawful origin of the property or providing assistance to a person involved in such activities in order to avoid the legal consequences of the committed actions; 2) concealment or concealment of the true nature, place of origin, disposition, movement, right to or ownership of property if such property was acquired through criminal acts or the act of involvement in such acts; 3) acquisition, possession or use of property acquired through criminal acts or the act of involvement in such acts; and 4) participation or association for the purpose of executing, attempting to execute, or aiding, abetting, facilitating or giving advice in the performance of any of the said acts. In doing so, the purpose, knowledge and intent required as elements of a money laundering action can be inferred from objective and factual circumstances. Money laundering is also considered when the actions that acquired the laundered property were carried out in the territory of another state.

4.2. Money Laundering in the Criminal Code of Bosnia and Herzegovina

4.2.1.Conception and elements of the offense

On the basis of the above mentioned international and European standards in the field of financial crime suppression and the Criminal Code of Bosnia and Herzegovina of 2003, with later updates, in the group of criminal offenses against economy and market unity and customs - Article 209 prescribes the criminal offense of Money Laundering ". This offense consists in receiving, exchanging, holding, disposing of, using it in a commercial or other business or otherwise concealing money or property of a higher value known to have been obtained through the commission of a criminal offense or if it jeopardizes the common economic space of Bosnia and Herzegovina and Or if it has adverse effects on the activities or financing of the institutions of Bosnia and Herzegovina (Simović, Simović, Todorović, 2015: 135). In theory (Djordjevic, Djordjevic, 2016: 173), it is believed that the basis of this incrimination is the inability of the state to detect, in a timely and effective manner, a previously committed criminal offense (one or more) that obtained unlawful material gain. This act has been designated by the Law on the Prevention of Money Laundering and Financing of Terrorist Activities as a previous criminal offense, that is, the act from which the property subject to the criminal offense of Money Laundering originated, regardless of whether it was committed in the territory of Bosnia and Herzegovina or abroad. (Pavisic, Grozdanić, Veic, 2007: 628-630). The object of criminal protection (Petrovic, Jovasevic, Ferhatovic, 2016: 274-276) is the financial system - the common economic space of Bosnia and Herzegovina. Money and property obtained through criminal activity (through the commission of criminal offenses, either by

the perpetrator himself or another person, but not by performing other unlawful activities such as economic offenses), are reported as the object of the attack.

The enforcement action consists of several alternatively legally prescribed activities (Lazarević, Vučković, Vučković, 2004: 667-669). These are the actions envisaged by the Law on Prevention of Money Laundering and Financing of Terrorist Activities, as well as the mentioned universal and regional international documents (Vienna, Strasbourg or Warsaw Convention): a) receipt, b) exchange, c) holding, d) disposition, e) use in a business or other business, or f) conceal otherwise money or property of greater value known to have been obtained through the commission of a criminal offense. All of these activities are related to the receipt, conversion (exchange, tramp, exchange), holding or transfer (encumbrance or non-freight) of illegally acquired property with the intention of concealing (silent, not communicating at all or at a certain time) or falsely, incorrectly displaying its illegal origin, whether or not this intention is actually fulfilled in the present case.

For the existence of this crime, it is essential that it is: 1) money or property that is: a) obtained through the crime and b) of greater value. When there is a "higher" value, it is a factual path that the court decides in each case. Here, the enforcement action refers to money or other (movable or immovable) property (Jovasevic, Mitrovic, Ikanovic, 2018: 378-381) that is known to originate from criminal activity. The enforcement action is taken in relation to the facts of the "origin" of the illegally acquired property, and not to the property itself. Silence, non-disclosure is the failure to enter the correct information in the supporting documentation with the property or not (directly or indirectly, in any way) of another, authorized person with information on the origin of the property, which prevents the competent authorities from obtaining at all or in a timely manner about the illegal origin of the property . False, false representation in whole or in part of the fact of illegal property originating from criminal activity is the expression, verbally or in writing, of making available to the competent competent authorities the knowledge of the illegal origin of the property at all or in a timely manner.

The acquisition, holding or use (use) of an economic or other business of property relates to property known at the time of receipt to be derived from criminal activity. Acquisition (acquisition, acquisition) is any activity that comes into possession of illegally acquired property. Holding is only the possession of such property, its (direct or indirect) state, factual authority, possession, in a certain space for a certain period of time by the offender. The use of illegal property is its use, putting into circulation, in circulation in any way, most often for the payment of goods or services. It is important for the existence of this shop that the perpetrator, at the time of coming into possession (at the time of admission), has an awareness of the illegal origin of such property, that is, property originating from criminal activity (Turković et al., 2013: 336-340).

The fulfillment of two more constituent elements is essential to the existence of this crime. These are: 1) that the perpetrator commits the act of execution with the knowledge (with awareness) that it is money or property originating from a criminal activity (regardless of whether he or she knows the legal qualification of a specific crime, whether he or another person the perpetrator of such a "previous" crime, whether he knows his perpetrator and where the act was committed - in Bosnia and Herzegovina or abroad) and 2) that there is an intention on the part of the perpetrator at the time of the perpetration to conceal or falsely display the unlawful origin of property which originates from

criminal activity (Jovasevic, 2017: 172-174).

The perpetrator of the act may be any person (both the person who undertook the criminal activity with which the money or property was acquired as a "laundering" object, as well as any other person) as well as the responsible person in the legal entity. Guilt requires direct intentions that qualify: a) the perpetrator's awareness, knowledge that money and property are derived from criminal activity, and b) the intent of the perpetrator to conceal (silence) or falsely (in whole or in part, false, contrary to objective reality) "illegal the origin of the property '.

This offense is punishable by one to eight years in prison. In addition to the punishment, the perpetrator of the act must also be pronounced a security measure of confiscation of objects - money and property originating from criminal activity.

4.2.2. Forms of criminal offense

The criminal offense referred to in Article 209 of the Criminal Code of Bosnia and Herzegovina has an easier (privileged) and two more serious (qualified) forms of expression. The lighter form of this offense, for which the law prescribes lighter punishment, is determined by the lenient form of guilt - negligence on the part of the perpetrator at the time of committing the act of execution. Thus, an easier form of this act exists if the enforcement action was taken by a person who did not know that the money or property represented income generated by criminal activity, but could and should have known it. The form of guilt in the form of unconscious negligence is a circumstance for which the law prescribes a lighter sentence - imprisonment of up to three years or a fine (Jovašević, Mitrović, Ikanović, 2017: 314-316). However, the crime of money laundering also has two serious, qualifying forms of manifestation, for which fair punishment is prescribed.

The first serious form of the offense exists if the act of execution was undertaken in relation to money and property obtained through the criminal act in which the perpetrator of the act of money laundering participated as a perpetrator or accomplice. So, here we are talking about two necessarily, cumulatively connected activities for which the Law imposes a sentence of imprisonment of one to ten years. Another serious form of offense, for which a sentence of imprisonment of at least three years has been prescribed, exists if the object of the act of execution - money laundering - is money and property in the amount exceeding 200,000 KM. The value of the object on which the offense is committed in any form of manifestation - is a qualifying circumstance. It is determined according to market conditions at the time the enforcement action is taken (Djordjevic, 2011: 125-126).

5. Conclusion

The structure of national but organized crime is dominated by crime managed to the detriment of property of other natural and legal persons (and even entire states), with individuals, groups and entire organizations acting in pursuit of their criminal activity guided by the intention of obtaining illicit property gain. However, this is not enough, so these "dirty" money or other property acquired by these persons are trying to legalize, or put into legal circulation, circulation (to provide them with a legal basis of acquisition). On the other hand, the perpetrators of such offenses have the need to conceal the true origin of such money or property derived from criminal activity. Therefore, at the international and national level, the danger of such criminal activities of individuals and groups is being realized, aimed at laundering and concealing money and other property originating from criminal activity (by committing criminal offenses). Thus, international law, as well as individual

national legislations, provide for criminal liability for money laundering, as a criminal offense punished by severe penalties aimed at preventing and combating such socially dangerous activities.

The aim of the perpetrators is not to directly obtain the unlawful material gain, because if it remains hidden, in the sphere of illegal activity, it has no significance for the perpetrators of the previous crimes. Therefore, they are forced to obtain their or others " dirty, illegal, illegal " money or property " washed ", to obtain a legal basis for their acquisition, to place them in legal economic, monetary, banking, stock exchange, financial, trading and other similar streams . This means that, through criminal activity, the money and other property acquired by these persons are trying to legalize, or to put into legal circulation, circulation (to provide them with a legal basis of acquisition).

On the other hand, the perpetrators of previous criminal offenses, who obtained money or property in an unlawful manner, have the need to conceal the true origin of such "dirty", illegally obtained money or benefits and thus avoid prosecution and punishment. In order to prevent, suppress, suppress and reduce various illegal activities of individuals and groups to a socially acceptable level, the standardization of the rights and obligations of States in taking adequate measures, resources and procedures to prevent and combat money laundering has been initiated at the international level. To this end, a number of universal and regional international documents have been adopted specifying illicit activities and particular forms and types of manifestation of money laundering, as well as measures, organs and actions in national legislation to create a suitable legal basis for preventing and combating this negative social phenomenon.

Thus, in Bosnia and Herzegovina, the adoption of the Law on Prevention of Money Laundering and Financing of Terrorist Activities in 2014, with the 2016 amendment, as well as the Criminal Code (in the group of economic offenses) prescribes the criminal offense of money laundering in basic, lighter and more severe forms of imprisonment for which imprisonment and the security measure of confiscation of money and property are prescribed. Otherwise, this criminal offense consists in the conversion or transfer of property known to have originated from a criminal activity with the intention of concealing or falsely displaying the unlawful origin of property, in concealing or misrepresenting the facts of property known to have originated in a criminal activity or in the acquisition, possession or use of property known at the time of its admission from criminal activity.

LITERATURA

[1] Babić, M., Marković, I. (2007. Krivično pravo, Posebni dio. Banja Luka.

[2] Degan, V.Đ., Pavišić, B. (2005). Međunarodno kazneno pravo. Zagreb.

[3] Đorđević, M., Đorđević, Đ. (2016). Krivično pravo. Beograd.

[4] Đorđević, Đ. (2011). Krivično pravo, Posebni dio. Beograd.

[5] Jovašević, D. (2003). Komentar Krivičnog zakona Republike Srbije sa sudskom praksom. Beograd.

[6] Jovašević, D. (2011). Međunarodno krivično pravo. Niš.

[7] Jovašević, D. (2011a). Leksikon krivičnog prava. Beograd.

[8] Jovašević, D. (2017). Krivično pravo, Posebni dio. Beograd.

[9] Jovašević, D., Ikanović, V. (2015). Međunarodno krivično pravo. Banja Luka.

[10] Jovašević, D., Mitrović, LJ., Ikanović, V. (2017). Krivično pravo Republike Srpske, Posebni dio. Banja Luka.

[11] Jovašević, D., Mitrović, LJ., Ikanović, V. (2018). Komentar

Krivičnog zakonika Republike Srpske. Banja Luka.
[12] Kokolj, M., Jovašević, D. (2011). Krivično pravo Republike Srpske, Opšti i posebni dio. Bijeljina.
[13] Lazarević, LJ., Vučković, B., Vučković, V. (2004). Komentar Krivičnog zakonika Crne Gore. Cetinje.
[14] Levi, M. & William, G. (2002). Terrorist Finance, Money Laundering and the Rise of Mutual Evaluation: A New Paradigm for Crime Control? European Journal of Law Reform, 4 (2).
[15] Lilley, P. (2003). Dirty Dealing: The Untold Truth about Global Money Laundering. 2d ed. Sterling, Va.: Kogan Page.
[16] Mrvić Petrović, N. (2005). Krivično pravo. Beograd.
[17] Novoselec, P. (2004). Opšti dio kaznenog prava. Zagreb.
[18] Pavišić, B., Bubalović, T. (2013). Međunarodno kazneno pravo. Rijeka.
[19] Pavišić, B., Grozdanić, V., Veić, P. (2007). Komentar Kaznenog zakona. Zagreb.
[20] Petrović, B., Jovašević, D. (2005). Krivično (kazneno) pravo, Posebni dio. Sarajevo.
[21] Petrović, B., Jovašević, D. (2010). Međunarodno krivično pravo. Sarajevo.
[22] Petrović, B., Jovašević, D., Ferhatović, A. (2016). Krivično pravo 2. Sarajevo.
[23] Selinšek, LJ. (2007). Kazensko pravo, Splošni del in osnove posebnega dela. Ljubljana.
[24] Simić, I., Trešnjev, A. (2010). Krivični zakonik sa kraćim komentarom. Beograd.
[25] Simović, M., Simović, V., Todorović, LJ. (2015). Krivični zakon Bosne i Hercegovine. Sarajevo.
[26] Turković, K. et al. (2013). Komentar Kaznenog zakona. Zagreb.
[27] Vukson, William, B.Z., ed. (2003). Organized Crime & Money Laundering. Toronto, Ont.: G.7 Report Inc.
[28] Woods, Brett F. (1998). The Art & Science of Money Laundering: Inside the Commerce of the International Narcotics Traffickers. Boulder, Colo.: Paladin Press