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PECULIARITIES OF INITIATING CRIMINAL PROCEEDINGS IN MONEY LAUNDERING CASES

Davit Melkonyan[*], **Milena Hayrapetyan**[**]

Abstract. The purpose of this article is to analyze certain peculiarities related to the initiation of criminal proceedings in money laundering cases.

The article examines such issues as the legal necessity for, and possible legal consequences of, the Financial Monitoring Center (hereinafter also referred to as the FMC) of the Central Bank of the Republic of Armenia sending a notification to a public participant in the proceedings, as well as the necessity of initiating new criminal proceedings in relation to the criminal offense of money laundering where criminal proceedings have already been initiated in relation to the predicate offense preceding the money laundering. Relevant research has been conducted with respect to these issues, on the basis of which practical proposals are presented.

Emphasizing the role of the FMC in combating money laundering, the article aims to prevent, as far as possible, the circumvention of statutory requirements by public participants in the proceedings within the framework of legal relations arising from the exercise of the FMC's powers. In addition, it is important to ensure the implementation of the principle of legal certainty and the realization of a legitimate public purpose within these legal relations. The article also puts forward practical proposals aimed at achieving these objectives.

The research conducted for this article has identified legislative gaps and resulted in proposals aimed at addressing them.

In addition, the article seeks to reiterate the necessity of initiating new criminal proceedings in money laundering cases where the grounds and conditions for initiating criminal proceedings exist.

To this end, the article puts forward proposals whose adoption would contribute to addressing legislative gaps concerning the initiation of criminal proceedings in money laundering cases.

[*] **Davit Melkonyan** - Associate Professor at the Chair of Criminal Procedure and Criminalistics, YSU, davitmelkonyan@ysu.am 0000-0001-9993-6404

[**] **Milena Hayrapetyan** - Acting head of the legal expertise service of the Anti-Corruption Court of Appeal of Republic of Armenia, Lecturer at the chair of Criminal Procedure and Criminalistics, YSU, milena.hayrapetyan@ysu.am, 0009-0000-2241-0295

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The approaches presented in the article may be of interest to legal professionals involved in legislative drafting, as well as to law enforcement officers and judges.

Keywords - *Financial Monitoring Center, initiation of criminal proceedings, predicate offense, operational information, confidentiality, public participants in the proceedings, bodies conducting operational-search activities, report of a crime.*

Introduction

The initiation of criminal proceedings lays the foundation for criminal procedural relations and subsequent legal processes. In this context, it is particularly important to minimize legislative gaps and potential circumvention of legal requirements and to ensure the principle of legal certainty to eliminate legislative gaps and prevent potential circumvention of legislative requirements to the greatest extent possible, while ensuring the observance of the principle of legal certainty at the legislative level, with the aim of contributing to the effective implementation of the procedure for conducting proceedings concerning alleged crimes.

In practice, certain issues arise in connection with the initiation of criminal proceedings in money laundering cases. Identifying these issues and proposing ways to overcome them is of significant theoretical and practical importance.

The article discusses legal issues such as the legal expediency of the information analyzed by the FMC in proceedings related to money laundering and, as a result thereof, the sending of a notification to a public participant in the proceedings, as well as the necessity of initiating new criminal proceedings in respect of a possible act of money laundering.

The study employed both general methods of scientific cognition (synthesis, induction, and deduction) and special methods of jurisprudence (formal-logical and comparative legal methods).

PECULIARITIES OF INITIATING CRIMINAL PROCEEDINGS IN MONEY LAUNDERING CASES

Initiating criminal proceedings is a complex procedural institution that occupies an important place among the other institutions of criminal procedural law, due to the fact that it is precisely through the initiation of criminal proceedings that the mechanisms of criminal procedure are set in motion. In other words, the initiation of criminal proceedings constitutes the starting point for the operation of a special regime for the regulation of criminal procedural relations between the state and the individual, and it is through the initiation of criminal proceedings that the scope of

criminal proceedings is predetermined[1]. The initiation of criminal proceedings involves specific tasks, a defined range of participants, time limits, and special procedural actions, and concludes with the preparation of an appropriate procedural document[2].

There is also a view that the initiation of criminal proceedings is an activity consisting of a system of procedural relations and characterized by actions and decisions from the moment of receiving a report of a crime until the initiation of criminal proceedings or a decision to refuse to initiate criminal proceedings[3].

Thus, it can be stated that the record of the initiation of criminal proceedings marks the beginning of criminal procedural relations and subsequent legal processes; therefore, the initiation of criminal proceedings is a cornerstone and initial action upon which the entire subsequent process may depend, for the simple reason that problems arising at the beginning of the procedural process affect the entire proceedings, with corresponding legal consequences, and may even lead to the unlawfulness of the entire proceedings.

By virtue of the new regulations of the Criminal Procedure Code of the Republic of Armenia (hereinafter also referred to as the Code), the initiation of a criminal proceeding must be the rule, while non-initiation must be an exception[4]. Currently, a relatively low threshold for initiating criminal proceedings has been envisaged, ensuring, within the framework of preliminary investigation, the possibility of a full examination of each report corresponding to the minimum requirements. This is also due to the fact that, unlike the former code, the investigator does not have procedural means to verify the truthfulness or reliability of the facts stated in the report. That is, prior to initiating a criminal proceeding, the investigator cannot perform any actions and will determine the steps to be undertaken by them solely through analyzing and evaluating the content of the report (and, if available, also the materials attached thereto). Proceeding from the same consideration, following the example of the code adopted in 1998, the new code also considers the legal assessment of the facts stated in the report—that is, the selection of a specific article, paragraph, or point of the Criminal Code—as

[1] Lazarev, V. A. (2001). Initiation of a criminal case as an act of legal response to criminal encroachments (Candidate of Legal Sciences dissertation abstract, 18 p.). Available at: http://www.namvd.ru/sciense/dis/Autoref/369.html

[2] Vandyshev, V. V. (2002). Criminal procedure: Course of lectures. St. Petersburg: p. 63.

[3] Manova, N. S., & Frantsiforov, Yu. V. (2007). Criminal procedure: Lecture notes. Moscow: Yurayt-Izdat, p. 68.

[4] Ghukasyan, H., Melkonyan, D., & Nikoghosyan, A. Practical Guide to the Conceptual Solutions, Innovative Approaches, and Interpretation of the Main Institutions of the New Criminal Procedure Code of the Republic of Armenia. p. 270.

provisional, since it is reasonably probable that on the basis of information obtained during the preliminary investigation, it may be adjusted or changed. To ensure this, the Code provides that upon the instruction of the supervising prosecutor, the investigator is authorized to make a change in the protocol on initiating a criminal proceeding if there is a need to correct the factual description of the alleged crime or the legal assessment given thereto.

The Code has expanded the scope of sources of information regarding an apparent crime or the grounds for initiating criminal proceedings. In addition to natural and legal persons, the investigator, prosecutor, and judge, such a report can henceforth be submitted also by a state or local self-government body or an official thereof in connection with the exercise of their activities, as well as by a body carrying out operational-search activities in connection with the exercise of its powers. This essentially fills the gap that previously existed in the criminal procedural legislation, when information about an apparent crime revealed through any of the specified methods was submitted to the competent authorities not in the form of a report, but simply in the form of providing relevant materials[5].

The Code has provided an exhaustive list of persons and bodies authorized to submit reports of crimes, on the basis of whose duly submitted reports concerning apparent crimes criminal proceedings may be initiated. It is precisely in this context that we will address the legal issue of whether information analyzed by the FMC in proceedings related to money laundering can serve as a possible occasion for initiating a criminal proceeding.

The Criminal Procedure Code[6] points out the conditions necessary for initiating a criminal proceeding. Namely, the existence of a lawful occasion and sufficient grounds, as well as the absence of data regarding circumstances excluding proceedings in the case. In legal literature, there is no unambiguous understanding regarding the legal nature of grounds for initiating criminal proceedings, although the clarification of this very issue is of essential importance when initiating a criminal proceeding.

Some proceduralists view the grounds for initiating criminal proceedings as sources of initial information about a crime, while others consider them to be legal facts. Other opinions regarding the legal nature of grounds for initiating criminal proceedings are also expressed in scientific legal literature. The first view is the most widespread. It should be noted that many proceduralists are proponents of the view that considers grounds for initiating criminal proceedings as sources

[5] Ibid., p. 271.
[6] Criminal Procedure Code of the Republic of Armenia (adopted on June 30, 2021).

established by law (R. Rakhunov, S. Borodin, B. Teterin, E. Troshkin, A. Koblikov, B. Bezlepkin, and others), according to which these sources are the authorized bodies or officials of the state who receive initial information about a committed or prepared crime[7].

According to proceduralists N. Zhogin, F. Fatkullin, M. Fayzullin, R. Uskov, and L. Maslennikova, the criminal procedural law gives occasions the significance of legal facts, the emergence of which leads to the necessity of discussing the issue of initiating a criminal proceeding [8]. Other views, according to E. Kozilov, represent attempts to find a compromise between the above-mentioned two approaches in defining the legal nature of grounds for initiating criminal proceedings[8].

In this case, grounds for initiating criminal proceedings are, as a rule, understood as having a dual nature: as "sources established by law, from which the inquiry body, investigator, prosecutor, or court becomes aware of a prepared or committed crime, and as a circumstance that gives rise to the obligation of these bodies to discuss the issue of the necessity of instituting a criminal case"[9].

That is, two components of occasions are distinguished: informational and legal. Thus, an occasion, as a received signal, on the one hand contains information about the attributes of a crime, and on the other hand constitutes a legal fact that requires the competent body to perform certain actions provided for by law. Grounds for initiating criminal proceedings are legally significant actions that constitute legal facts (specifically, lawful legal acts), with which the law associates the emergence of criminal procedural relations. This position was substantiated and articulated by N. Zhogin and F. Fatkullin, who asserted that "The occasion for instituting a criminal case must be viewed first of all as a legal fact that gives rise to the rights and duties specified in the law and the relations stemming therefrom.

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[7] Rakhunov, R. D. (1954). Initiation of a criminal case in Soviet criminal procedure law. Moscow: Gosyurizdat, pp. 14–20; Borodin, S. V. (1966). Resolving issues on the initiation of a criminal case. Moscow: Yurid. lit., p. 11; Teterin, B. S., & Troshkin, E. Z. (1997). Initiation of a criminal case. Moscow: Novyy Yurist, pp. 18–22; Koblikov, A. S. (Ed.). (2002). Criminal procedure: Textbook for higher education institutions. Moscow: Norma, p. 156; Bezlepkin, B. T. (2004). Criminal procedure of Russia. Moscow: KnoRus, p. 162; See also: Kozilov, E. N. (2007). Grounds for initiating a criminal case: Legal nature, system, ways of improvement. Ugolovnoe sudoproizvodstvo, (2), pp. 35–40.

[8] Zhogin, N. V., & Fatkullin, F. N. (1961). Initiation of a criminal case. Moscow: Yurid. lit., pp. 18–24; Maslennikova, L. N. (1993). Procedural significance of grounds for initiating a criminal case. Zakonnost, (5), pp. 15–17; Fayzullin, M. S. (1980). Grounds and basis for initiating a criminal case (Candidate of Legal Sciences dissertation abstract). Kazan, pp. 10–12; Ushkov, R. G. (2011). Concept and legal nature of grounds for initiating a criminal case. Sotsial'no-gumanitarnyye znaniya, (4), pp. 312–315.

[9] Bozh'ev, V. P. (Ed.). (2004). Criminal procedure: Textbook. Moscow: Spark, p. 225.

Meanwhile, any legal fact is not a source of any information or factual data, but a certain action (inactivity) or event"[10]:

Thus, we can state that Article 173 of the Criminal Procedure Code of the Republic of Armenia lists the sources from which the competent body receives a report on a crime. This view is further supported by the fact that the practical guide to the interpretation of the conceptual solutions, innovative approaches, and main institutions of the new Criminal Procedure Code of the Republic of Armenia also uses the term source; in particular, addressing the issue of discussing improper reports, it is stated: if information concerning a crime has been received from a source not provided for by the Code, including an unknown or undisclosed source, then initiating a criminal proceeding is inadmissible. Nonetheless, this prohibition is not absolute, and the legislator has also established that such information is verified within the framework of operational-search activities[11]

Thus, we consider the persons and bodies specified in Article 173 of the Criminal Procedure Code of the Republic of Armenia to be the proper sources from which a duly submitted report of a crime can be legally obtained. Developing this approach, we consider that the information contained in a report becomes the legal fact with which the law associates the commencement of legal relations.

Thus, it stems from the content of Article 173 of the Criminal Procedure Code of the Republic of Armenia that the investigator is obligated, within the limits of their competence, to initiate a criminal proceeding if a proper report on an apparent crime has been received from a physical person, legal entity, state or local self-government body or an official thereof in connection with the exercise of their activities, a body carrying out operational-search activities, an investigator, prosecutor, or judge in connection with the exercise of their powers. In addition, information published in the mass media about an apparent crime can be an occasion for the investigator to initiate a criminal proceeding, and in accordance with international law, the refusal of an extradition request for a person in connection with the alleged crime specified in that extradition request is an occasion to initiate a criminal proceeding if the operation of the Criminal Code of the Republic of Armenia extends to that person and the alleged act attributed to them. Of course, anonymous reports were not ignored by the legislator either, and in accordance with the same article, a criminal proceeding cannot be initiated if information about a crime has been received from a source not provided for in this

[10] Zhogin, N. V., & Fatkullin, F. N. (1961). Initiation of a criminal case. Moscow, p. 92.
[11] Ghukasyan, H., Melkonyan, D., & Nikoghosyan, A. Practical Guide to the Conceptual Solutions, Innovative Approaches, and Interpretation of the Main Institutions of the New Criminal Procedure Code of the Republic of Armenia. p. 270.

Article, including an unknown or undisclosed source. Such information is verified upon the initiative of the prosecutor or investigator in the manner established by the Law "On Operational-Search Activities" if it contains facts that can reasonably be verified[12].

In light of the foregoing, and with reference to the importance of financial intelligence in money laundering proceedings and the possibility that information analyzed by the FMC may constitute an occasion for initiating criminal proceedings, the following should be noted:

In international practice, the procedure for using the results of financial investigations by financial intelligence units depends on their organizational structure and the scope of their powers. The standards (recommendations) of the Financial Action Task Force (FATF) allow the activities of financial intelligence units both as part of other departments and as independent bodies. The principal requirement of FATF Recommendation 29 in this regard is based on the necessity of establishing a financial intelligence unit that will serve as a national center for the receipt and analysis of reports on suspicious operations (transactions) and other information related to money laundering, predicate offenses, and terrorist financing, as well as for transmitting the results of the analysis to competent law enforcement authorities[13].

Articles 3 and 13 of the Law of the Republic of Armenia "On Combating Money Laundering and Terrorism Financing" establish that it is also among the competencies of the authorized body, i.e., the Central Bank of the Republic of Armenia, to provide notifications to bodies carrying out operational-search activities, as well as to public participants of proceedings, if as a result of analysis performed on the basis of reports or other information received in the manner established by this law from persons providing reports, it concludes that there are reasonable suspicions related to money laundering or terrorism financing, or such reasonable suspicions of a predicate offense that may lead to money laundering. Simultaneously with the notification or subsequently, in addition to the notification, the authorized body may, on its own initiative, submit to bodies carrying out operational-search activities, as well as to public participants of proceedings, other information related to the circumstances indicated in the notification. The notification or the information provided in addition to the notification may contain information constituting a secret established by law. For these purposes, the authorized body has a responsible structural unit—the Financial

[12] Criminal Procedure Code of the Republic of Armenia (adopted on June 30, 2021).
[13] Financial Action Task Force (FATF). (2012). International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation: The FATF Recommendations.

Monitoring Center—which, inter alia, must ensure the necessary conditions for the secure storage of information received, analyzed, and provided in accordance with this Law. This information can be accessible only to competent authorities or persons in the manner established by law.

It follows from Article 12 of the same law that the authorized body is prohibited from disclosing any information received, analyzed, and provided by it, including information regarding a person who provided a report on a suspicious transaction or business relationship or other data to the authorized body or participated in their provision, or a person involved in the provision of a notification by the authorized body to bodies carrying out operational-search activities, as well as to public participants of proceedings—making them known to other persons orally or in writing through mass media or otherwise, directly or indirectly granting other persons the opportunity to obtain such information, except for cases provided for by this law.

In addition, information received and maintained by the authorized body, as well as other information accessible to the authorized body, cannot be provided or used for any purpose not related to combating money laundering and terrorism financing. In cases provided for by the Law "On Combating Money Laundering and Terrorism Financing," notifications and other information provided by the authorized body to bodies carrying out operational-search activities, as well as to public participants of proceedings, constitute operational information that can be used only in the manner established by legislation and cannot be provided to a third party, except for bodies carrying out operational-search activities, as well as public participants of proceedings[14].

According to the Charter of the FMC, the FMC is the national financial intelligence body of the Republic of Armenia. Its tasks are:

"(...) 2/ analysing suspicious transactions or business relationships as prescribed by law, on the basis of information received from reporting entities and state bodies, and providing notifications as a result of the analysis regarding reasonable suspicions of ML/TF to bodies carrying out operational-search activities, as well as to public participants of proceedings[15].

The FMC carries out monitoring and analysis of financial transactions for the purpose of preventing money laundering and terrorism financing.

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[14] Law of the Republic of Armenia on Combating Money Laundering and Terrorism Financing (adopted on May 26, 2008).

[15] https://www.cba.am/file_manager/FMC/FMC%20AM/%D5%96%D4%B4%D4%BF_%D5%AF-%D5%A1%D5%B6%D5%B8%D5%B6%D5%A1%D5%A4%D6%80%D5%B8%D6%82%D5%A9%D5%B5%D5%B8%D6%82%D5%B6.pdf (Accessed: May 4, 2026).

The interpretive note to FATF Recommendation 29 directly states that information received, processed, held, or disseminated by an FIU must be securely protected, exchanged, and used only in accordance with agreed procedures and policies, and applicable laws and regulations[16].

Thus, the above gives grounds to make such conclusions as:

1. The FMC, being the financial intelligence body in the RA, operates within the Central Bank and, when exercising its powers, provides notifications regarding reasonable suspicions of ML/TF resulting from analysis of information received from persons and state bodies to bodies carrying out operational-search activities, as well as to public participants of proceedings.

2. A notification provided by the Financial Monitoring Center constitutes operational information, which is directly enshrined in Article 12 of the Law of the Republic of Armenia "On Combating Money Laundering and Terrorism Financing," according to which provided notifications and other information are operational information that can be used only in the manner established by legislation and cannot be provided to a third party, except for bodies carrying out operational-search activities, as well as public participants of proceedings.

3. The Financial Monitoring Center operates on a confidential basis. This is not only logical, given the need to protect the source of the information, but also follows directly from both legislative provisions and the FATF Recommendations.

Proceeding from all of the above, as well as from the requirement of lawful grounds for initiating a criminal proceeding and the very limited range of legal instruments available to the body conducting the proceedings before the initiation of criminal proceedings, guided by the principle of certainty and aiming to exclude potential legislative circumventions in practice, we state the following: the Financial Monitoring Center sends notifications both under conditions of an initiated proceeding and under conditions where a criminal proceeding has not been initiated. Moreover, in both cases, the legislative regulations are such that the notification can be sent both to the body carrying out operational-search activities and to the public participant of the proceeding. It is here that the legal problem and question arise as to what purpose a notification sent to a public participant of the proceeding serves under conditions where a criminal proceeding has not been initiated, and whether it can achieve its purpose at the legislative level. Thus, we believe that, where no criminal proceeding has been initiated, the notification in question may, in substance, be regarded as a report concerning an apparent

[16] Financial Action Task Force (FATF). (2012). International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation: The FATF Recommendations.

criminal offence, yet it cannot be realized in any way at the legislative level because, firstly, it constitutes operational information, and secondly, its contents may not be disclosed, nor may it even be retained in the case materials; therefore, aiming to avoid possible misunderstandings, we think that the legislative formulation in this regard should be made more specific and amended as follows:

In accordance with part 3 of Article 13 of the Law of the Republic of Armenia "On Combating Money Laundering and Terrorism Financing":

"In the event that a criminal proceeding has been initiated, the authorized body provides a notification to bodies carrying out operational-search activities, as well as to public participants of proceedings, and in the event that a criminal proceeding has not been initiated, provides a notification only to bodies carrying out operational-search activities, if as a result of analysis conducted on the basis of reports or other information received in the manner established by this law from persons providing reports, it concludes that there are reasonable suspicions related to money laundering or terrorism financing, or such reasonable suspicions of a predicate offense that may lead to money laundering. Simultaneously with the notification or subsequently, in addition to the notification, the authorized body may, on its own initiative, submit to bodies carrying out operational-search activities, as well as to public participants of proceedings, other information related to the circumstances indicated in the notification. The notification or the information provided in addition to the notification may contain information constituting a secret established by law."

Accordingly, we propose to make the following amendment in the Charter of the Financial Monitoring Center as well: According to the Charter of the Financial Monitoring Center, the FMC is the national financial intelligence body of the Republic of Armenia. Its tasks are:

"(...) 2/ Analysis of suspicious transactions or business relationships established by law, taking as a basis information received from reporting persons and state bodies, and providing notifications as a result of the analysis regarding reasonable suspicions of ML/TF in the event that a criminal proceeding has been initiated, to bodies carrying out operational-search activities, as well as to public participants of proceedings, and in the event that a criminal proceeding has not been initiated, only to bodies carrying out operational-search activities."

In this way, both the level of certainty and an approach stemming from the logic of the law will be ensured, and practical possible circumventions, which under existing legislative conditions are at least not excluded, will be excluded; henceforth, initiating a criminal proceeding in cases of this type will be more invulnerable.

Detailing what has been said and emphasizing the relevance of the proposal, we consider it necessary to note that sending the relevant notification only to the body carrying out operational-search activities prior to initiating a criminal proceeding is more than logical and stems both from the Law of the Republic of Armenia "On Operational-Search Activities" and from the necessity of preserving criminal procedural frameworks and phased structure. Thus, regarding the sending of the relevant notification to the public participant of the proceeding prior to initiating a criminal proceeding, there are two possible situations; they are:

First — the public participant of the proceeding views it as a report on a crime, but it cannot be viewed as such, to the extent that, firstly, the notification cannot in this case be a report; secondly, initiating criminal proceedings on the basis of operational information that may not be disclosed not only does not stem from international standards and domestic legislative requirements, but would also undermine the very nature of the Financial Monitoring Center's activities and the evidentiary or informational value of the data obtained.

Second — the presented notification amounts to an unnecessary use of resources, since it is not viewed as a report on a crime and, in a criminal procedural sense, no procedural powers under criminal procedure law arise in connection with this notification; therefore, it cannot be aimed at ensuring any lawful interest in a criminal procedural sense.

The picture is entirely different in the event that, under conditions where a proceeding has not been initiated, the relevant notification is sent only to the body carrying out operational-search activities. In this case, it is viewed as operational data on the basis of which relevant measures are carried out and a report on a crime is submitted, where the issue of source disclosure and the requirement of confidentiality are already preserved.

The next issue related to proceedings concerning money laundering that we wish to address relates to the following:

In accordance with part 7 of Article 178 of the Criminal Procedure Code of the Republic of Armenia: "7. Whenever the fact of another alleged criminal offence is discovered during the preliminary investigation, a new criminal proceeding shall be initiated, and the materials of the proceedings confirming that fact shall be attached to the relevant protocol."

Taking into account the circumstance that for the corpus delicti of money laundering a predicate offense is necessary and there is generally already an initiated criminal proceeding for the predicate offense, we want to draw special attention to the necessity of initiating a new proceeding regarding the possible fact of money laundering, if the factual description in the protocol on initiating a

criminal proceeding concerning the fact of the predicate offense did not contain a factual description regarding money laundering, based on the following justification:

A new act discovered during the preliminary investigation is considered another crime (in connection with which a new proceeding must be initiated) if that act has no in personam and (or) in rem connection with the act regarding which the preliminary investigation is being conducted.

Of fundamental importance in this regard is how the law-enforcement practitioner interprets the concept of “criminal act”: in a substantive criminal-law sense or in a procedural sense.

In case of a criminal-legal understanding of the concept of "criminal act," new episodes discovered during the preliminary investigation that are encompassed within the framework of the same criminal-legal qualification given to the act will not be considered "another crime" (hence the necessity of initiating a new criminal proceeding will not arise).

From a procedural perspective, a newly discovered alleged crime will not be considered "another crime" if that act is substantively connected with the act in respect of which the preliminary investigation is being conducted[17].

We believe that in the absence of a factual description regarding money laundering in the factual description of the protocol on initiating a criminal proceeding concerning the fact of the predicate offense, there is a necessity to initiate a new criminal proceeding regarding the possible fact of money laundering.

Moreover, we believe that in this case, proceeding from the circumstance that a criminal proceeding is initiated on the basis of a proper report, the existence of a report is necessary in the case of any other crime so that the criminal proceeding is initiated on its basis. In addition, a situation is also possible where, for example, an investigator examining a case in their proceedings has an internal perception that there is an alleged crime related to money laundering and immediately sets about initiating a criminal proceeding, while another investigator might find on the basis of that report that even the minimum threshold for initiating a criminal proceeding does not exist; therefore, initiating a criminal proceeding without a report on a crime is legally fraught with negative consequences.

Based on the foregoing, we believe that under conditions where a criminal proceeding has been initiated regarding the predicate offense, in the protocol of which the factual description of money laundering is absent, while the authorized person finds that there is also an alleged case of money laundering, it is necessary

[17] Ghambaryan, A. (2022). Initiation of criminal proceedings: Scientific and practical commentaries.

to submit a report concerning the possible commission of a money-laundering offence and, once the applicable threshold has been met and the statutory conditions have been satisfied, to initiate a new criminal proceeding.

Conclusion

1. In the event that a criminal proceeding has not been initiated, the notification provided by the Financial Monitoring Center may be regarded as a report on an apparent crime but it cannot be acted upon within the existing legislative framework, since, first, it is operational information, and second, its content and source cannot be disclosed and it cannot even be kept in the materials of the proceeding; therefore, in order to avoid possible misunderstandings, we believe that the legislative formulation in this regard should be made more specific and amended as follows:

In accordance with part 3 of Article 13 of the Law of the Republic of Armenia "On Combating Money Laundering and Terrorism Financing":

"The authorized body, in the event that a criminal proceeding has been initiated, provides a notification to bodies carrying out operational-search activities, as well as to public participants of proceedings, and, **in the event that a criminal proceeding has not been initiated, provides a notification only to bodies carrying out operational-search activities**, if, as a result of an analysis performed on the basis of a report or other information received from reporting persons in the manner established by this Law, it concludes that there are reasonable suspicions related to money laundering or terrorism financing, or such reasonable suspicions of a predicate offense that may lead to money laundering. Simultaneously with the notification or subsequently, in addition to the notification, the authorized body may, on its own initiative, provide bodies carrying out operational-search activities, as well as public participants of proceedings, with other information related to the circumstances indicated in the notification. The notification or the information provided in addition to the notification may contain information constituting a secret established by law".

1.1 Accordingly, it is necessary to make the following amendment in the Charter of the Financial Monitoring Center as well: According to the Charter of the Financial Monitoring Center, the FMC is the national financial intelligence body of the Republic of Armenia. Its tasks are:

"(...) 2/ Analysis of suspicious transactions or business relationships established by law, taking as a basis information received from reporting persons and state bodies, and providing notifications as a result of the analysis regarding reasonable

suspicions of ML/TF in the event that a criminal proceeding has been initiated, to bodies carrying out operational-search activities, as well as to public participants of proceedings, and **in the event that a criminal proceeding has not been initiated, only to bodies carrying out operational-search activities."**

1.2 Prior to initiating a criminal proceeding, sending the relevant notification only to the body carrying out operational-search activities is more than logical and follows both from the Law of the Republic of Armenia "On Operational-Search Activities" and from the necessity of preserving the criminal procedural mechanisms and phased structure.

3. In the absence of a factual description regarding money laundering in the factual description of the protocol on initiating a criminal proceeding concerning the fact of the predicate offense, there is a necessity to initiate a new criminal proceeding regarding the possible fact of money laundering.

3.1 Under conditions where a criminal proceeding has been initiated regarding the offense preceding money laundering, in the protocol of which the factual description of money laundering is absent, while the authorized person finds that there is also an alleged case of money laundering, it is necessary to submit a report on the possible existence of the corpus delicti (crime) of money laundering, and upon overcoming the relevant threshold and the existence of legislative conditions, to initiate a new criminal proceeding.

Conflict of Interests

The authors declare that there are no ethical issues or conflicts of interest in this research.

Ethical Standards

The authors confirm that this research did not involve other people as research participants.

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