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**ACTUAL FEATURES AND INTERSTATE STANDARDS FOR DETECTING  
A CRIME UNDER ARTICLE 174 OF THE CRIMINAL  
CODE OF THE RUSSIAN FEDERATION**

**Timur Irshatovich GAZIZOV**

*The article reveals the problems that arise in the course of identifying such a crime in the field of economic activity as the legalization (laundering) of money and other property obtained as a result of criminal activity by another person. Attention is focused on the lack of a uniform approach in law enforcement practice to refer certain actions to legalization, as well as on the organizational problems of identifying this crime.*

*Keywords: legalization; proceeds from crime; detection of crimes; operational - search activities; interaction.*

**АКТУАЛЬНЫЕ ОСОБЕННОСТИ И МЕЖГОСУДАРСТВЕННЫЕ СТАНДАРТЫ  
ВЫЯВЛЕНИЯ ПРЕСТУПЛЕНИЯ, ПРЕДУСМОТРЕННОГО СТАТЬЕЙ 174 УК РФ**

**Тимур Иршатович ГАЗИЗОВ**

*В статье раскрываются особенности и проблемы, возникающие в ходе выявления такого преступления в сфере экономической деятельности, как легализация (отмывание) денежных средств и иного имущества, полученного в результате преступной деятельности другим лицом. Акцентируется внимание на отсутствии единообразного подхода в правоприменительной практике к отнесению тех или иных действий к легализации, а также на организационных проблемах выявления данного преступления.*

*Ключевые слова: легализация; доходы, полученные преступным путем; выявление преступлений; оперативно – розыскные мероприятия; взаимодействие.*

**Introduction.** Responsibility for the legalization (laundering) of funds or other property that was acquired by criminal means by other persons is provided for in Art. 174 of the Criminal Code of the Russian Federation. This criminal act has a sufficiently high degree of public danger due to the fact that the proceeds of crime are actually given the status of legal and they go into ordinary civil circula-

tion. At the same time, according to statistics, the number of detected crimes of this type is small. So, in 2019, 946 crimes under Art. 174 and 174.1 of the Criminal Code of the Russian Federation, in 2018 - 993 such crimes. Against the background of the total number of criminal acts registered in the Russian Federation, these figures look very insignificant, which most researchers explain by the high

degree of latency of this type of crime, which is largely due to the difficulties in identifying them.

In order to determine the main problems that arise in identifying the legalization of criminal proceeds received by another person, it is necessary to understand what this act is, in this connection, it is required to give its brief criminal - legal description.

The object of the act under consideration is relations in the economic sphere. The objective side is that a certain person, reliably knowing that certain property or funds were acquired as a result of a crime, commits financial transactions or other transactions with this property or monetary funds in order to give a legitimate look to the proceeds of crime ... The subject of the act in question can be any individual who meets the general characteristics of a subject in criminal law, the only exception in this case is that according to this norm, the person who participated in the commission of the predicate offense, that is, the offense, as a result of which and income was received. Here the legislator has provided for certain distinctions, highlighting the legalization (laundering) of funds or other property by the person who committed the predicate offense into a separate norm - Art. 174.1 of the Criminal Code of the Russian Federation. The subjective side is characterized by direct intent, while the goal of committing a crime is of paramount importance - giving a legal form to the possession, use or disposal of the proceeds of crime. And it is precisely this goal that is the distinguishing feature of this act, which delimits it, in particular, from such an act as the sale of property, knowingly obtained by criminal means, the responsibility for which is established in Art. 175 of the Criminal Code of the Russian Federation. In the latter case, the person seeks only to enrichment or pursues the goal of helping the perpetrator of the predicate offense in getting rid of the property obtained by criminal means. In this regard, the highest court has clearly clarified that the disposal of

proceeds from crime for personal purposes does not indicate that the culprit has the goal of legitimizing these incomes. For example, if a person, using funds received by another person as a result of a crime, purchases food, clothing, household equipment, etc., he only disposes of the proceeds of crime, and does not legalize them.

All of the above elements of the crime under Art. 174 of the Criminal Code of the Russian Federation, should be taken into account in each case when it comes to the presence or absence of signs of a given crime, since a criminal offense is considered identified when it is registered and a decision is made to initiate a criminal case, and this is possible only if there are all signs of a crime. crimes. If any of the signs of corpus delicti is absent (for example, the purpose of legalization), then a decision is made to refuse to initiate a criminal case, which means that there can be no talk of detecting a crime.

Now it is necessary to go directly to the problems that law enforcement agencies face when identifying acts under Art. 174 of the Criminal Code of the Russian Federation. The detection of this crime, like most others, is carried out as a result of operational - search activities, as the analysis of law enforcement practice shows, most often in this case such operational - search activities are carried out as:

- research of financial, economic and accounting documents of the organization on transactions and financial transactions;
- observation of the audited persons and their activities;
- control of postal items, telegraph and other messages; wiretapping of telephone conversations;
- removal of information from technical communication channels; - Prompt implementation of employees in organizations and groups involved in the legalization (laundering) of funds.

At the same time, taking into account the specifics of the criminal act in question, it should be noted that by conducting only oper-

ational-search measures it is far from always possible to obtain the necessary information, which can serve as a basis for initiating a criminal case, here interaction with Rosfinmonitoring is important, in whose tasks include detecting monetary deposits, interacting with financial intelligence services of foreign states in order to obtain information about dubious financial transactions and transactions made by Russian citizens abroad. And here a fairly large number of problems arise.

First of all, the analytical reports that law enforcement agencies receive upon request from Rosfinmonitoring are only indicative in nature, they cannot be considered as evidence, on their basis it is only possible to determine the directions for further collection of information; during the investigation, investigators are forced to request the same information in credit institutions, which delays the investigation. Obviously, this problem can be solved quite simply by considering the information received from Rosfinmonitoring as evidence.

Another problem in this area is the long-term execution of requests from law enforcement agencies, it should be noted that the legal deadline for their execution is 30 days, which in itself is quite long, but often this deadline is not observed, and information has to wait long enough ... All this suggests that in order to improve the efficiency of detecting money laundering, it is necessary to improve the activities of Rosfinmonitoring, in particular, to optimize the mechanism of interaction with law enforcement agencies, improving the quality of the information provided and reducing the response time to requests. The development of international cooperation with similar bodies of foreign states is also required.

An equally significant problem is that, despite the long existence in the Russian criminal legislation of the norm establishing responsibility for the legalization of money and other proceeds from crime, to date, judicial practice on this issue is not uniform. This

problem is manifested in the fact that for the same actions in different regions of the country, persons can be prosecuted, and in others they can be acquitted due to the absence of signs of *corpus delicti*. So, for example, if we are talking about the legalization of proceeds from criminal activity in the sphere of illegal drug trafficking, then in some cases multi-level schemes for transferring funds through electronic payment systems and their subsequent cashing are considered either as an integral part of a predicate offense or as disposal of the proceeds of crime, which excludes the possibility of qualifying such actions under Art. 174 of the Criminal Code of the Russian Federation.

The main difficulties in this case are as follows:

- the difficulty of proving the criminal origin of funds or other property;
- the difficulty of proving the knowledge of the person giving legal appearance to the money or property about the criminal origin of this property or money;
- the complexity of proving intent to commit this crime, as well as the compulsory purpose of the crime under Art. 174 of the Criminal Code of the Russian Federation;
- the complexity of delimiting the legalization of property obtained by criminal means from disposing of it for personal consumption.

The solution to these problems is seen in the following:

- increasing the professionalism of law enforcement officials, whose tasks include identifying and investigating the facts of legalization, one of the ways may be to hold joint meetings of employees of operational and investigative units, during which it is necessary to study the positive experience of bringing to justice those responsible for committing a crime under Art. 174 of the Criminal Code of the Russian Federation, and to analyze the errors, as a result of which it was not possible to bring the perpetrators to criminal responsibility;

- bringing to the uniformity of judicial practice, which is possible by improving the clarifications of the highest court, since, as the analysis of the problems arising in law

enforcement practice shows, the current resolution of the Plenum of the RF Armed Forces does not give an unambiguous answer to many questions.

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