

ЕКОНОМІКА ТА УПРАВЛІННЯ НАЦІОНАЛЬНИМ ГОСПОДАРСТВОМ

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THE PROBLEMS OF CORRUPTION AND LEGALIZATION OF MONEY LAUNDERING**ПРОБЛЕМИ КОРУПЦІЇ І ЛЕГАЛІЗАЦІЇ ВІДМИВАННЯ ГРОШЕЙ**

The urgency of the research. The study of the corruption and laundering legalization is based on the need of development of effective countermeasures to these processes in modern economic conditions in Ukraine.

Target setting. The ways to launder money used in domestic practice have to be analyzed in order to find the ways of minimizing their use. The review of corruption in Ukraine and identification of the areas of countering the further development of this phenomenon in the Ukrainian economic system need further study.

Actual scientific researches and issues analysis. Scientific papers of such domestic scholars as S. A. Butkevych, P. T. Gega, O. O. Kuryshko, P. F. Maksymchuk, O. D. Markieava, N. A. Orlovska, B. V. Romaniuk, T. L. Syroid, D. O. Garbazej, I. M. Tohtarova, S. V. Iakimova and foreign researchers, such as M. Levi, P. Reuter, L. Vega, X. Andrade, A. Oliviera, P. van Dune, etc. Chaikin, J. Sherman, A. Brown, F. Williams, D. Fendo, L. Dragos, J. Walker, B. Unger started to study the problem of corruption and legalization of money laundering as well as the ways to prevent them.

Uninvestigated parts of general mater defining. The problem of corruption and legalization of laundering are relevant in view of the ongoing transformation of the forms and ways of implementing these processes, that cannot be counteracted with the traditional methods.

The research objective. The paper deals with the modern ways of corruption conduct and legalization of money laundering in Ukraine and offers promising directions of dealing with this problem in the domestic economy.

The statement of basic materials. This article provides information about the problem of corruption in Ukraine. The tools and mechanisms for the legalization of illegal income are defined. Foreign experience of dealing with the corruption phenomenon is outlined. The directions to minimize corruption and ways to combat the legalization of illegally obtained funds in the national practice are discussed.

Conclusions. Corruption and money laundering legalization are common problems for Ukraine, therefore the economy of Ukraine is characterized by one of the highest levels of corruption in the whole world. Corruption in many cases is the pretext to money laundering or one of the elements of this process. Therefore, the task of corruption fighting and legalization of illegal funds should be solved comprehensively. There will be no positive effect if the problems are approached in different ways.

Актуальність теми дослідження. Важливість дослідження проблеми корупції і легалізації відмивання грошей пояснюється необхідністю розробки ефективних заходів протидії цим процесам у сучасних економічних умовах в Україні.

Постановка проблеми. Потребують вивчення способи відмивання грошових коштів, що використовуються у вітчизняній практиці з метою пошуку шляхів мінімізації їх використання. Заслужує на увагу огляд стану корупції в Україні та виявлення напрямів протидії подальшому розвитку цього явища у вітчизняній економічній системі.

Аналіз останніх досліджень і публікацій. Наукові праці таких вітчизняних вчених, як С. А. Буткевич, П. Т. Гега, О. О. Куришко, Р. Ф. Максимчук, О. Д. Маркеєва, Н. А. Орловська, Б. В. Романюк, Т. Л. Сироїд, Д. О. Гарбазей, І. М. Тохтарова, С. В. Якімова та зарубіжних дослідників, на кшталт М. Леві, П. Рейтер, Л. Вега, Х. Андраде, А. Олів'єра, П. ван Дюн, Д. Чайкін, Дж. Шерман, А. Браун, Ф. Вілліамс, Д. Фендо, Л. Драгос, Дж. Волкер, Б. Унгер заклали основи для дослідження проблем корупції і легалізації відмивання грошей і пошуку шляхів запобігання та протидії їм.

Виділення недосліджених частин загальної проблеми. Проблеми корупції і легалізації відмивання грошей не втрачають своєї актуальності з огляду на постійну трансформацію форм та способів здійснення цих процесів, протидіяти яким традиційними методами не видається можливим.

Постановка завдання. Стаття покликана конкретизувати сучасні способи вчинення корупційних дій і легалізації відмивання грошей в Україні та розкрити перспективні напрями боротьби з цією проблемою на теренах вітчизняної економіки.

Виклад основного матеріалу. У статті наведено дані щодо поточного стану проблеми корупції в Україні. Визначено інструменти та механізми легалізації незаконних доходів. Окреслено зарубіжний досвід боротьби з явищем корупції. Запропоновано напрями мінімізації корупції та протидії легалізації коштів, отриманих злочинним шляхом, у вітчизняній практиці.

Висновки. Проблеми корупції і легалізації відмивання грошей є характерними для України, яка із решти держав світу демонструє один із найбільших рівнів схильності до стрийняття явища корупції як норми економічного життя. Корупція у багатьох випадках є приводом до відмивання грошей або одним із елементів цього процесу. Тому завдання протидії корупції та легалізації коштів, отриманих незаконним шляхом, має розв'язуватись комплексно, і вирішення першої із зазначених проблем без роботи у площині вирішення

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другої, не дасть бажаного позитивного ефекту.

Ключові слова: корупція; відмивання грошей; легалізація коштів; тіньова економіка.

Urgency of the research. Corruption is one of the most pressing problems in the modern world. There are two different phenomena with the same name. The first one includes a small, domestic corruption associated with the gifts to the representatives of authority for certain services. This type of corruption has always been practiced, therefore it is of no significance for the economic system of the country. Thus its elimination is of not primary importance. Sophisticated corruption schemes involving huge amounts of money, in some cases budget funds, have serious consequences. The fight against this kind of corruption without exaggeration should be considered to be of national importance.

The corruption becomes especially threatening when it is accompanied by the legalization (laundering) of money and property laundering.

Treating this problem philosophically, money laundering destroys money value. Hence this process promotes economic crimes such as embezzlement of budgetary funds, terrorism, tax evasion, as well as drugs trade and trafficking by means of storage or transfer of funds. The implementation of these and other types of crimes undermines the fundamentals of national security and reduces public credit. Thus, the study of the problems of corruption and laundering legalization have been relevant for many years.

Target setting. Corruption has become an international problem over the decades and corruption fighting has turned into a primary task for any government, international organizations and the world community to solve. Corruption is interrelated with money laundering and organized crime, which is a serious threat to national and international security.

Inter-penetration and inter-dependence of corruption and legalization of illegal money are getting more evident in Ukraine, which needs primary solution, namely to focus on revealing and preventing of shadow schemes of revenues generated outside the formal economy. Taking into account the crisis of confidence of the population and business to a government and financial institutions there is an urgent need for comprehensive measures, implementation of which will create serious prerequisites for fundamental changes in the situation in Ukraine in the sphere of combating large-scale corruption, primarily with the aim of laundering of the illegal financial resources.

Actual scientific researches and issues analysis. Theory and methodology of combating legalization of criminal incomes and corruption at different levels of the Government is paid special attention to all over the world. Each state according to the socio-economic features and requirements of the international community is developing legislation on counteracting legalization of criminal incomes. But its imperfections, confirmed by the fact that corruption and shadow economy have not still been overcome in many countries of the world and need new theoretical research. Many domestic scientists analyzed different aspects of corruption and illegal funds legalization. In particular, S.A. Butkevych studies real and potential threats of illegal money legalization and corruption [1], P. T. Gega offers the evaluation of possible methods to prevent and combat illegal funds legalization and terrorism financing in Ukraine [2], O. Kuryshko specifies the analysis of the results of the world experience in preventing illegal incomes legalization and offers the ways to implement it in Ukraine. [3] R. F. Maksymchuk investigates the problems of income legalization under modern conditions [4], O. D. Markeeva [5] and N. A. Orlovska study the problem of illegal income and other property legalization [6], B.V. Romaniuk analyzes the world experience of founding and functioning of anticorruption institutions [7], T. L. Syroid and D. O. Garbazei learn the international experience of prevention of illegal funds legalization, connected with corruption [8], I. M. Tokhtarova considers legalization, that is money laundering, in Ukraine to be a corrupt activity [9], S. V. Iakymova suggests ways to prevent legalization as a crime with corruption elements [10].(defines the legalization (laundering) of "dirty" money in Ukraine as a corrupt component) [9], S. Akimova (defines the legalization (laundering) of "dirty" money in Ukraine as a corrupt component) [9], S. Akimova (offers directions to counter and prevent the legalization (laundering) of laundering as a crime that has signs of corruption (taking into

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account international recommendations [10]. Recognition of corruption and legalization of money laundering at the international level is confirmed by the publications of such foreign scholars, as Levy, Reuters p. [11], Vega, Andrade, Olivier [12] Van Dunes p. [13], Čajkin d., Sherman J. [14; 15] Brown and [16], Villåms f. [17] Fendo d. [18] Dragos I. [19], Walker J, Unger b. [20].

Uninvestigated parts of general matter defining. The problem of the development of new forms of solving corruption problem and legalization of money laundering, which would take into account the close link between these phenomena and are characterized by a comprehensive approach to combating corruption, the legalisation of financial resources need further research.

The research objective. The purpose of the article is to identify the current state of the problems of corruption and legalization of laundering, characteristic for Ukraine's economy, and the possible ways to solve them in domestic practice.

The statement of basic materials. The processes of money legalization have been influencing the world economy for many years. Large amounts of financial assets are legalized every year becoming a threat to the world economy and the economic security of individual states. Legalization of money includes various types of illegal activities used to make illegally obtained money lawful and legitimate. Illegal sources of money and financial assets are usually disguised and hidden by using complex financial schemes that may also include a corrupt component.

Criminal community demonstrates an unusual grace in dealing with the challenge of finding new channels for the legalization (laundering) of incomes. Operations on legalisation of financial resources in a global scale is estimated in 2-5% of global GDP, or about 1-2 trillion USD per year [21]. However, according to UNO a government can currently stop less than 1% of global illicit financial flows obtained from drugs and crime. This statistics can be explained by the fact that representatives of power structures become participants of money legalization schemes. This statement is especially true for Ukraine, the level of corruption in which remains during the last five years too high (Tab. 1).

Table 1

The dynamics of the index of corruption perception [22]

#	Country	2012	2013	2014	2015	2016	Rank in 2016
1	Denmark	90	91	92	91	90	1
2	Finland	90	89	89	90	89	3
3	Sweden	88	89	87	89	88	4
4	Switzerland	86	85	86	86	86	5
5	Norway	85	86	86	87	85	6
6	Netherlands	84	83	83	87	83	8
7	Canada	84	81	81	83	82	9
8	Germany	79	78	79	81	81	10
9	Austria	69	69	72	76	75	17
10	United States	73	73	74	76	74	18
11	Japan	74	74	76	75	72	20
12	France	71	71	69	70	69	23
13	United Arab Emirates	68	69	70	70	66	24
14	Poland	58	60	61	62	62	29
15	Spain	65	59	60	58	58	41
16	Italy	42	43	43	44	47	60
17	Turkey	49	50	45	42	41	75
18	Belarus	31	29	31	32	40	79
19	Brazil	43	42	43	38	40	79
20	China	39	40	36	37	40	79
21	Zambia	37	38	38	38	38	87
22	Egypt	32	32	37	36	34	108
23	Dominican Republic	32	29	32	33	31	120
24	Moldova	36	35	35	33	30	123
25	Russia	28	28	27	29	29	131
26	Ukraine	26	25	26	27	29	131
27	Nigeria	27	25	27	26	28	136
28	Tajikistan	22	22	23	26	25	151
29	Iraq	18	16	16	16	17	166
30	Somalia	8	8	8	8	10	176

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Therefore, the overall level of corruption in Ukraine is quite high. In 2014 according to the study of international anti-corruption NGO Transparency International, Ukraine got 142 position out of 175 countries in the world with a high level of corruption in the state. Ukraine managed to earn only one additional point in 2015. According to the results of the world corruption perception index in 2015 Ukraine ranked 130 in the level of corruption perception out of 168 countries and in 2016 it ranked 131, that was even worse than in Russia, Egypt and Zambia.

Positive index dynamics in Ukraine in 2015 was due to the public condemnation of corruption, the establishment of anti-corruption bodies and the relevant legislative framework. It has been done quite a lot over the recent years in Ukraine in the field of corruption fighting, namely a special anti-corruption law and other anti-corruption legislative acts were adopted, the concept of combating corruption and special anti-corruption program was approved, systematic activities involving heads of law-enforcement and other state bodies for combating corruption were introduced, etc. [23, p. 10]. However, the position of Ukraine in the rating is getting worse again.

High position in the ranking of corruption perception by the leading countries is due to the following three principles:

1. Honest and transparent actions of the state authorities.
2. The inevitability of punishment.
3. High rewards for work and honest work encouragement.

Taking into account Ukraine's indicators, it is evident that these principles do not work. In modern world such forms of corruption as bribery, bribery of state and political figures, officialdom, illegal protectionism, nepotism have become widespread and popular. Corruption can be possible for the nationalization of public life, excessive management centralization, the development of the shadow economy, avoidance of real democracy. Crisis, falling of social conventions, abrupt changes in policy, bribery fighting are characterized by a large scale corruption, that is the political and economic conditions characteristic for present-day Ukraine.

The pervasive corruption in Ukraine is an additional factor that exacerbates the problem of the legalization of funds. Despite the fact that Ukraine is not a regional bank or financial center, its banking system has close links with the European banking networks. Transnational organized crime syndicates use Ukraine as a transit country to transfer their illicit profits in offshore companies. In the course of the research conducted in the period from March to September, 2014, 2015, the State service of financial monitoring (FMS), a division of the financial intelligence of Ukraine removed from the fraudulent schemes the sum of money equivalent to 1.52 billion USD connected with the large scale corruption in the former government [24].

Thus, a characteristic feature of domestic practices is that illegal income, which needs legalization and is mainly generated as a result of corruption, fraud, illegal circulation of drugs, weapons and people, organized crime, prostitution, cybercrime and evasion. To legalize such incomes different methods are used, including the realization of objects of the real estate, financial institutions and other companies. In Tab. 2 actors, tools and methods of theft and the legalization of money through the financial system are structured.

AML Index Basel measures the risk of money laundering and terrorism financing in the countries on the basis of publicly available information. The list of 10 countries with the highest risk in 2016 of the Basel Index includes Iran, Afghanistan, Tajikistan, Guinea-Bissau, Cambodia, Mozambique, Mali, Sudan, Uganda and Myan [25, c.3]. Finland remains the country with the lowest level of risk, also the lowest indicators of risk of money laundering and financing of terrorism is found in Lithuania, Estonia, Slovenia. Unfortunately, the information about Ukraine in this authoritative rating is missing, but a large proportion of the shadow economy in the country proves a significant vulnerability of domestic financial systems to the problem of money laundering. Traditional payments in cash help hide a certain amount of funds from state oversight, and financial transactions concluded in the shadow economy, contribute to relatively easy money laundering depriving the Government of a part of tax revenues. Use of the informal economy is primarily connected with evasion of taxes and customs duties. Many Ukrainians work abroad and make money transfers in Ukraine through the family or within the international payment systems. These transfers amounted to approximately \$2.2 billion in

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the first six months of 2015. \$311 million profit from this sum got through informal financial channels. In addition, Ukraine continues to develop the market of smuggled goods.

Table 2

Fund legalization through participants of Ukraine's financial system

Subjects	Legalization tools	Methods of theft
Banking institutions	<ul style="list-style-type: none"> – «garbage» securities (shares, promissory notes); – fake debts; – the transfer of rights of claim; – converting funds in cash. 	<ul style="list-style-type: none"> – loans to borrowers, affiliated with owners; – issuance of fake loans to businesses; – the withdrawal of the property under mortgage by transfer of ownership to third parties; – withdrawal of funds through correspondent accounts in foreign banks.
Insurance companies	<ul style="list-style-type: none"> – conclusion of insurance agreements by unlikely risks; – fictitious documents regarding the insured event; – concluding agency contracts with thomission; – reinsurance companies with unsatisfactory financial condition; – «garbage» securities (shares, investment certificates, promissory notes); – converting funds in cash. 	<ul style="list-style-type: none"> – getting cash for unlikely insurance risks and transfer in favor of fake enterprises; – carrying out of financial operations of reinsurance from insurance companies, with a poor financial status; – significant amounts of funds are paid by the insurance companies to individuals for the agent agreements; – payment of the insurance compensation for a short period of time to a considerable number of individuals.
Foreign /joint ventures	<ul style="list-style-type: none"> – pseudo import contracts; – «garbage» securities; – fake companies residents and non-residents; – agreements regarding the classification of homogeneous oncoming requirements; – fake documents 	<ul style="list-style-type: none"> – the account of the Ukrainian enterprise accumulates funds from a considerable number of contractors, which are subsequently transferred abroad for the benefit of non-residents; – operations with fraudulent investment schemes;
	<ul style="list-style-type: none"> the implementation of foreign economic activity; – loans from non-residents, pseudo investments, cash withdrawal; – counterfeiters. 	<ul style="list-style-type: none"> – financial operations on the pseudo import contracts, transit transfers between non-residents abroad and return to the territory of Ukraine on the accounts of individuals in order to get cash.
The participants of the securities market	<ul style="list-style-type: none"> – securities issued by fake enterprises; – securities rotating on the over-the-counter market; – promissory notes, with a circulation of more than 3 years or in newly established enterprises; – bearer saving certificate; – bonds of internal state loan purchased not at market value; – converting funds in cash. 	<ul style="list-style-type: none"> – money from unknown sources are transferred as payment for the "garbage" – the acquisition of domestic government bonds at a reduced price and their further use at market prices; – the involvement of the financial operations of the newly formed professional participants of the securities market; – the use of straw persons and fake enterprises.
Converting centers	<ul style="list-style-type: none"> – attracting a significant amount of physical persons and legal entities (including fake ones); – the opening of accounts by one legal or natural person in various banking institutions; – the involvement of the financial operations of socially disadvantaged groups, people with criminal records and lost passports; – combining different schemes related to the withdrawal of funds abroad and trade with imported goods for cash. 	<ul style="list-style-type: none"> – contracts of assignment of rights; – "fictitious" securities (bills, shares, investment certificates); – financial aid and other kinds of loans.

Compiled by the author from data [23, p. 55,58, 60, 64]

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The problem of money laundering and corruption in Ukraine is not only the problem of law enforcement authorities, but also of the whole civil society, as one of the reasons of fraudulent schemes implementation formed over the years, tolerance to these crimes. The basic methods of combating money laundering in Ukraine should include: the improvement of mechanisms of control and monitoring of the activities of financial institutions, limiting access of financial institutions to international centers of trade in gold bullions, precious stones and valuable metals, elimination of errors in the regulation of foreign exchange transactions and other transactions with cash. The problem is that offenders constantly invent new ways of converting criminal money in legal funds. Their ideas and technologies are always ahead of law enforcement structures, in particular, systematically changing the currency, methods of money legalization, using offshore zones to launder illegal funds, etc. That is why the relevant international organization (ATF, MONEYVAL, the Egmont Group, etc.) and national financial intelligence units summarize and bring to the attention of bodies authorized to counteract this crimes typology of legalization of criminal incomes.

In general, there are many methods and ways of counteracting legalization of criminal incomes. But the main idea is that all these measures should have the effect and provide a positive result. Thus, minimizing such phenomenon as the legalization of criminal funds, it is possible to stop the growth of many crimes connected with the obtaining of income, and other financial benefits, including corruption in the organs of state power, as well as customs authorities.

At present, the international community has a very strong foundation for combination and use of the system to combat money-laundering and organized crime as an instrument regulating the proliferation of the phenomenon of corruption, and the experience of developed countries in this plane can be recommended for countries seeking to ensure that national anti-corruption legislation corresponded to international standards, that is for Ukraine.

In the UK, for example, the level of corruption was reduced due to the severe penalties. A person who receives the bribe is a subject to a criminal punishment regardless of her actions and motives. Bribery with the aim of receiving honorary awards is a separate kind of corrupt crime in British law. Officials are forbidden to take even small gifts.

In Singapore the corruption was reduced by means of vertical measures. In particular, the judges received higher wages, reinforced penalties for refusing to participate in the investigation of corruption offences. The Office for the Investigation of Corruption Cases played an important role. All these activities have contributed to the transformation of Singapore from one of the most corrupt in one of the leading in the absence of corruption, economic freedom and the development of the countries of the world.

China's fight against corruption is of a cyclic nature. After every Congress of the Communist Party, where the fight against corruption is declared, its level dramatically reduces. Death penalty for certain types of corruption crimes contributes to this as well. However, after some period of time, the level of corruption rises again.

Let us consider the American and Italian anti-corruption practices that are becoming more and more popular in the world.

In the American version all family members of the criminal group were automatically confiscated all the assets, everything except for the things necessary for modest life. In the Italian system, a bribe-giver, cooperating with the investigation, is automatically relieved from liability. This allows to break down the circular guarantee between the organizer of the corruption and his victim. These two elements help even absolutely corrupt system start working for self-cleaning.

In our opinion, the most positive effect in combating corruption and illegal money legalization can be expected from the measures that have proven effectiveness in foreign practice, taking into account the specific realities of the domestic business and public administration. First of all, it is advisable to pay attention to the possibility of improving the legal framework in the fight against corruption and money-laundering, pay attention to the development of the state program of reducing the corruption level, while simultaneously activating the propaganda of the state anti-corruption policy and explain to the citizens and representatives of the business areas the importance of interaction with the civil society, to develop a regional anti-corruption program and departmental plans with their decision to

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the public hearing.

It is important to develop in different social groups the necessity of anti-corruption actions, as well as intolerable attitude to corruption, which will enhance the credibility of the state bodies and institutions. It is also necessary to increase the level of legal knowledge and literacy, in order that everyone could take the necessary steps while contacting with manifestations of corruption. It is important to continue improving the program of "electronic government", which helps compose and send appeals, complaints, statements, etc. only in an electronic form, for providing any contact with civil servants directly.

Specific measures to reduce corruption in the state and society, to identify and punish persons complicit in corruption play an important role in corruption combating. A mandatory annual reporting of officials (officials of the executive authorities and the members of their respective levels) about the income and property status is a simple and rather effective measure. Income declarations of these people (as well as their children and spouses) have to be in the open access on the Internet, presented in official media, checked by the control and supervision bodies. Such practices are starting to develop in Ukraine. The effective direction, in our opinion, of the corruption combating and the legalization of illegal funds is strengthening penalties for corruption and financial crimes.

Conclusions. Having studied the problem of corruption and money laundering legalization it is possible to make the following conclusions.

1. The problem of corruption and money laundering are typical for Ukraine, but they were not completely solved even in the countries with a high level of economic development and a civil society. Corruption and money laundering threaten the economic security of the country, encourage the development of shadow economy, is a cause of social tension in a society and reduce the level of confidence of the population in the authorities, destabilizing the principles of the state organization. The problems mentioned above require the development of comprehensive measures, but the solution of the corruption problem is of primary importance, since this phenomenon is in many cases is the reason or a mechanism to launder illegal funds.

2. Ukraine belongs to the states that demonstrate a high level of corruption perception. In 2014 according to the study of international anti-corruption NGO Transparency International, Ukraine got position 142 out of 175 countries in the world with an high level of corruption in the State. Ukraine managed to earn only one additional point in 2015. According to the results of the world corruption perception Index in 2015 Ukraine ranked 130 in the level of corruption perception out of 168 countries and in 2016 it ranked 131, that was even worse than in Russia, Egypt and Zambia.

3. The tools, widely used in the financial system to launder illegal funds, can be called "garbage" securities (shares, promissory notes), the fictitious debts, conclusion of insurance agreements by unlikely risks; bogus documents regarding the insured event; concluding agency contracts with the High Commission; reinsurance in the companies with the unsatisfactory financial condition; pseudo import contracts; fake documents on the implementation of foreign economic activity; the opening of accounts by one legal or natural person in various banking institutions; the involvement of the financial operations of socially disadvantaged groups, people with criminal records and lost passports; combining different schemes related to the withdrawal of funds abroad and trade for cash with imported goods, etc.

4. Measures to counter corruption and to prevent the legalization of illegal funds include limiting cash transactions, increasing the degree of punishment for committing corrupt acts and financial offenses, increasing the level of awareness of the population and representatives of business structures in the first place due to the support of intolerance to corruption at different levels of the government, increased requirements for transparency of activities of governmental structures, reducing the number and duration of contacts between citizens and officials of different ranks, increased transparency of financial operations, strengthening control over the activities of financial institutions suspected of using as intermediaries in the process of the legalization of funds obtained by criminal means. However, constant modernization of tools and forms of money laundering indicates the need to use successful examples of foreign practices both in the minimization of shadow cash flows, as well as in the process of combating corruption in Ukraine.

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