



Problems of countering the legalization of proceeds from criminal activity (on the example of the Kingdom of Bahrain)

Umidakhon SOBITOVA¹

Tashkent State University of Law

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ABSTRACT

This article examines the challenges of combating money laundering and terrorist financing in offshore territories of the Kingdom of Bahrain. Additionally, it reveals the methods and mechanisms of money laundering within this jurisdiction. It also provides examples from notable cases. The article analyzes the Basel AML Index indicators, part of a study by the Basel Institute under the United Nations Crime Prevention and Criminal Justice Program Network. These indicators cover a broad spectrum of risk factors, each with its own focus and scope. The rating calculation is based on indicators organized into five main categories, each weighted differently.

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Jinoiy faoliyatdan olingan daromadlarni legallashtirishga qarshi kurashish muammolari (Bahrayn Qirolligi misolida)

ANNOTATSIYA

Kalit so'zlar:

FATF,
imtiyozli rejim,
Moliyaviy razvedka
boshqarmasi,
faza,
kiber firibgarlik.

Ushbu maqolada Bahrayn Qirolligining offshor hududida jinoiy yo'l bilan olingan daromadlarni legallashtirishga va terrorizmni moliyalashtirishga qarshi kurashning dolzarb masalalari ko'rib chiqilgan. Bundan tashqari, shu hududda "nopok" pulni yuvish jarayonining shakllari va modellari aniqlangan. "Yuqori darajadagi" jinoiy ishlardan misollar keltirilgan. Birlashgan Millatlar Tashkilotining jinoyatchilikning oldini olish va jinoiy Odil sudlov dasturi (Birlashgan Millatlar Tashkilotining jinoyatchilikning oldini olish va jinoiy odil sudlov dasturi tarmog'i) homiyligida faoliyat yuritadigan Bazel instituti

¹ Teacher, Department of Court, Law Enforcement Agencies and Advocacy, Tashkent State University of Law.
E-mail: sobitova.umidakhon@gmail.com

tomonidan olib borilgan tadqiqotlar doirasida jadvalda Bazel AML indeksining ko'rsatkichlari tahlil qilingan bo'lib, ular xavf ko'rsatkichlarining keng doirasini o'z ichiga oladi, ularning har biri har xil yo'nalish va qamrovga ega. Reytingni hisoblash uchun ishlatiladigan ko'rsatkichlar har xil o'ziga xos tortishish kuchiga ega bo'lgan beshta asosiy toifaga bo'linadi.

Проблемы противодействия легализации доходов, полученных от преступной деятельности (на примере Королевства Бахрейн)

Ключевые слова:

ФАТФ,
льготный режим,
Управление финансовой
разведки,
фаза,
кибермошенничество.

АННОТАЦИЯ

В настоящей статье рассмотрены актуальные вопросы противодействия легализации доходов, полученных преступным путём, и финансированию терроризма на оффшорной территории Королевства Бахрейн. Более того, раскрыты формы и модели процесса отмыwania «грязных» денег на данной территории. Приведены примеры из «громких» уголовных дел. В рамках исследования, проведённого Базельским институтом под эгидой Программы Организации Объединённых Наций по предупреждению преступности и уголовному правосудию, в таблице проанализированы показатели Basel AML Index. Эти показатели включают в себя широкий спектр показателей рисков, каждый из которых имеет разную направленность и охват. Показатели, используемые для расчёта рейтинга, сгруппированы по пяти основным категориям, каждая из которых имеет разный удельный вес.

SUMMARY

This scientific article focuses on combating the legalization of proceeds from crime. During the research, the author analyzed "offshore zones" and assessed the risks associated with placing and fragmenting crime proceeds and financing terrorism in Bahrain's offshore territories. Notably, tax advantages are not exclusive to companies in classic offshore jurisdictions but also extend to those registered in European countries. Examples include the Netherlands, Luxembourg, Austria, the UK, and Switzerland. These jurisdictions offer significant tax benefits to companies, despite corporate taxes and strict financial reporting requirements, under certain conditions. These jurisdictions, known for their higher level of respectability or "image," differ from financial offshores. The legality of using offshore companies, like any legal entity, varies; they can be part of legal tax planning or illegal activities like tax evasion or money laundering. The legality of an offshore transaction depends on the laws of its registration country, other relevant countries, and international treaties. While many developed countries impose restrictions on offshore transactions for their residents, a complete ban is rare. The author has thoroughly examined the primary models of money laundering, a topic that has sparked controversy among scholars. The article provides various international examples of criminal cases in this category.

As a result, the author concludes that the use of Bahrain's offshore jurisdictions at the final stage of organized criminal activity in the economic sphere, including tax evasion, is the most individual, sometimes distinctive feature of laundering proceeds from crime and financing terrorism. In general, this scientific article covers comprehensively and systematically the issues related to countering the legalization of criminal proceeds, therefore, it is of theoretical, scientific, and practical interest to both students, researchers, and forensic investigators.

... Capital has one single vital aspiration – the desire to grow...

Karl Marx [1, p. 244]

As you know, the functioning of international terrorism is closely connected to the creation of safe and favorable conditions when using offshore jurisdictions. In this regard, special attention is paid to the fight against the financing of terrorism, and the developers of comprehensive measures, at the same time, being fighters in this area, are the Group for the Development of Financial Measures to Combat Money Laundering (FATF). The comprehensive measures put forward by this Group exist in many countries of the world and, first of all, it is worth noting that they include verification of documents and participants of unreliable, in other words, suspicious transactions.

That is exactly how large and unlimited advantages are provided through offshore jurisdictions to achieve criminal goals, to an almost endless circle of people in any country.

Since such "tax havens" have such favorable conditions, namely: a simplified registration procedure; the secretive and confidential nature of the use of personal data, confidential information about persons who have registered such a company; a huge number of benefits, including tax, as well as those benefits through which criminal organizations use the "tax haven" as a source of financing of terrorist activities.

In its turn, we will briefly explain that the "**offshore zone**" is the entire territory of a certain state, it is also possible that its part, where there is a privileged, profitable, or zero taxation regime for some types of companies [2].

Before considering the issue regarding the risks for the placement and fragmentation of proceeds from crime and the financing of terrorism in the offshore territory of the Kingdom of Bahrain, we will describe the situation in this territory.

Thus, the Kingdom of Bahrain is an island in the Persian Gulf in Southwest Asia. This island state has established trade relations with Pakistan and India, which allows entrepreneurs to promote their businesses. The kingdom's other strong point is oil production and refining, which accounts for about 30% of GDP. The main advantage of an offshore company in Bahrain is zero taxes. The only exception when you need to pay a tax is oil and natural gas production.

It is worth noting that Bahrain offers three forms of doing business:

– **WLL – With Limited Liability**. Such organizations have limited liability, and also require an authorized capital of 20,000 dinars – \$ 53,050. The capital is paid immediately to the tax authority. The company should have 2-50 owners, as well as at least 2 directors.

– **SPC – Single Person Company**. Such firms are similar to individual entrepreneurship. The amount of the authorized capital should be 50,000 dinars – \$ 132,600. To create an enterprise of the SPC type in an island state, 1 person is needed who will perform the duties of the owner and shareholder of the company.

– **BSC – Bahrain Stock Company.** To open an offshore company, you need 2 or more owners. Here, entrepreneurs will have to pay the highest amount of the authorized capital – from 250,000 dinars (from \$ 663,000). Businessmen must immediately pay half of the amount to the tax authority, and within three years – the remaining 50% [3].

Particularly important are those points regarding the provision of preferential terms and a mutually beneficial position when registering a company in the Kingdom of Bahrain: firstly, having adopted the experience of foreign countries, Bahrain introduced a norm in its banking legislation regarding the interest rate on loans, when in Islamic countries this norm contradicts the provisions of Sharia and Muslim law in general. Consequently, this norm is simply absent in Muslim countries.

Secondly, the commercial banking sector is quite developed in Bahrain, among them there are popular international banks, as well as offshore banks of Islamic banks. Thirdly, there are also laws about bankruptcy and liquidation by court, existing in modern developed countries [4].

Moreover, we will further analyze *the main models of the money laundering process*, since this process is complex, thus quite lengthy, involving many different operations.

In this regard, it is important to mention the views of scientists on this issue. For example, several scientists, including Professor **P. Bernasconi (Switzerland)**, put forward a view on such a two-stage model as: 1) Money Laundering, that is, money laundering and 2) Recycling, more precisely, return to circulation, considering these components as "laundering" of the first and second degree. In turn, Professor **K. Muller (Switzerland)** presents a four-sector model studied using two pairs of concepts: legality or illegality, the country of the main crime, or the country of money laundering [5].

In our opinion, considering the forms of money legalization in the offshore zone of Bahrain, it is worth studying this issue within the framework of the most common "three-phase model". Meanwhile, adhering to this model, it is important to note that the first phase is referred to as *Placement*. This phase is characterized by the fact that before the introduction of "dirty" money into legal circulation, to begin with, it is often necessary to "launder" them beforehand, in such a way that they can be converted into other types of currencies, banknotes of other denominations, securities. The forms of the first phase in banking are aimed at circumventing the provisions on mandatory identification of the client that operates in most countries.

Key forms of the first phase:

- ✓ embezzlement or blackmail of persons responsible for the identification of the client;
- ✓ fraud using front persons and companies;
- ✓ the use of enterprises with a large cash turnover, the legal proceeds of which are mixed with "dirty" money;
- ✓ creation of own fictitious enterprises declaring "dirty" money as revenue;
- ✓ structuring – payments in small amounts to one bank account;
- ✓ exchange transactions, more precisely, organized exchange of money for banknotes of a different denomination or other currency without using bank accounts;
- ✓ smurfing, that is the organized purchase of easily transferable property values, mainly financial instruments. Each purchase is carried out for an amount lower than that with which the identification obligation arises.

Next, we will explain the structure of the second phase, referred to as *Layering*. The purpose of the second phase is to separate criminal proceeds from the source of their origin by conducting a complex of financial transactions. Ultimately, the chain of traces is broken and the anonymity of property values is ensured. The operations carried out in the second phase have the specifics of an international nature. To carry out operations, in the second phase, front persons and fictitious firms are widely used, issuing fictitious accounts that serve as the basis for transferring money. Bahrain is undoubtedly the "desired and favorite" place for the implementation of dark and dubious operations in the African-Arab region (*Fig. 1*).

Finally, consider the third phase, called *Integration*. The third phase differs from the previous two in that it is in this phase that money acquires a fundamentally new, legitimate source of origin and is invested in the legal economy. In this phase, first of all, deals with undervaluation are in priority. For example, in the same real estate transaction: a house is purchased at a reduced price, and the difference with the real price is paid with "black" money and after that, "repairs are made", and the building is sold at a higher price. As a result, legal income is generated. Secondly, overpriced transactions. As an example, operations with works of art, at auctions, and in exchange turnover can be cited. Things whose value can only be determined conditionally, or estimated, are sold at a fairly high price. As a result, a high real income is generated. Thirdly, "laundering" through casinos and lotteries. In this case, the money is declared as a win. Fourth, *Transfer pricing*, which is common in export-import operations. In this case, two contracts are drawn up: a real one and a fictitious one (with an inflated transaction amount). Under a fictitious contract, money is transferred to an intermediary company, usually registered in an offshore territory, and the difference between the real and fictitious price remains as income on the account of this company.

It is advisable to cite a **recent example** related to the report of law enforcement officers on suspicion of a fraudulent scheme, where three seized funds from the Ministry of Defense of Ukraine and purchased military ammunition for \$ 580 thousand. According to the investigation, two citizens of Ukraine are involved in its organization – the founders of an offshore company on the territory of the Kingdom of Bahrain. One of them is an active lawyer. On behalf of the Defense Department, the scammers found a company in Turkey that supplied body armor for the Armed Forces and concluded an agreement between it and the Ministry of Defense for more than 16 million euros.

In addition, the defendants in this incident, to seize funds, convinced the leadership of the Turkish company to agree with a controlled company for the purchase of 1,000 military ballistic vests of the IV level of protection for their urgent delivery for the needs of the Armed Forces. As a result, the offshore company received 580,000 US dollars, there were no deliveries of military products, and the attackers distributed the funds obtained fraudulently among themselves. As a result, more than 20 searches were conducted, during which 17 million UAH, \$400 thousand, and 100 thousand were seized euros, draft records, and other documentation [6].

Moreover, for a complete analysis of the issue related to money laundering in the offshore jurisdiction of Bahrain, we will also include a "high-profile" case investigated by the Egmont Group: The Financial Intelligence Directorate (FID), which is the FIU of Bahrain, identified an international money laundering scheme after receiving a SPO from a local currency exchange office. This referred to a person making several money transfers abroad, the amounts of which, roughly speaking, were contrary to his financial situation, while they did not have a reliable and reasonable legal source.

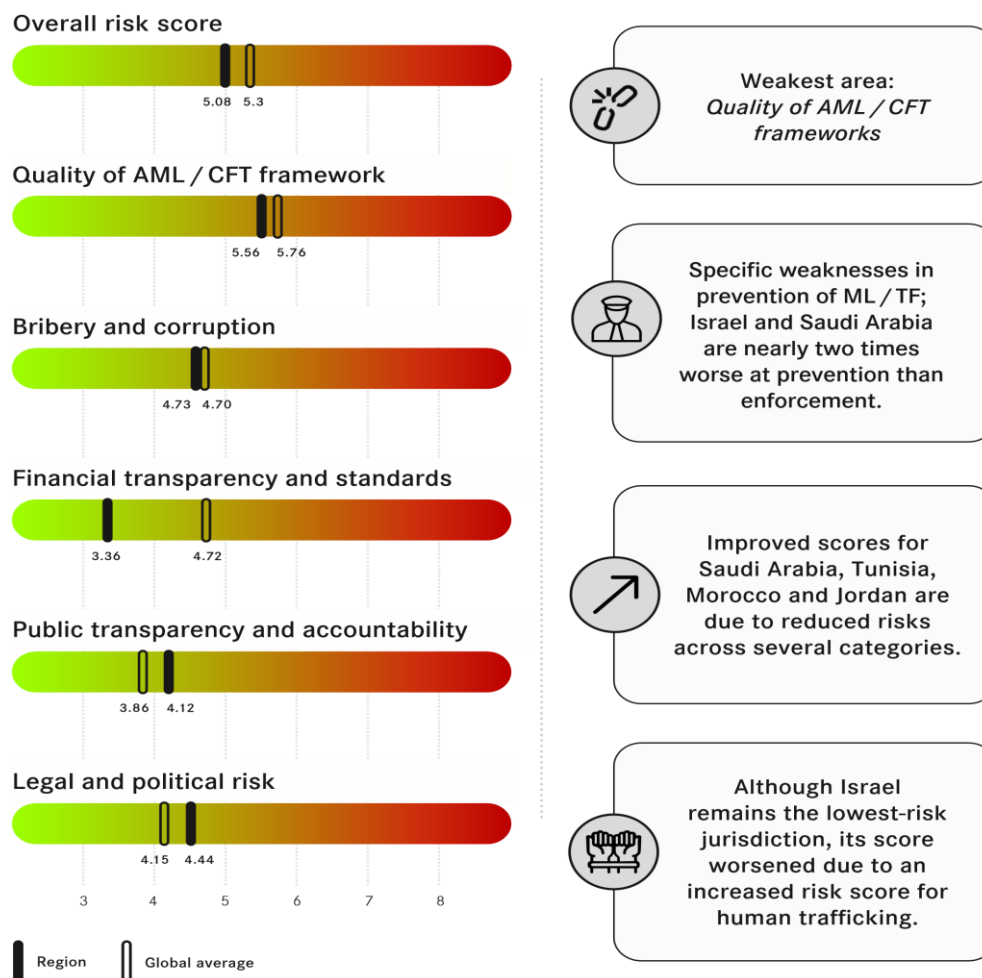
The Financial Intelligence Department carried out the following investigative actions. Consequently, a search was made in the FID database for the presence of information on criminal records, movements of all recipients and senders known at that time, as well as the presence of SPO directed against them. In addition, the accounts of Subject 2 were seized and printouts of telephone conversations between Subject 1 and Subject 2 were obtained, information was also obtained on all transactions carried out in the Kingdom of Bahrain, the main recipients of which were the same Subject 1 and Subject 2.

At the same time, the FID carried out international cooperation using the Egmont Secure Network and sent requests to five FIUs of the countries in which the senders of these transfers were located.

Eventually, the FID was able to locate and track down all the suspects in Bahrain who were involved in the case. These suspects were detained; illegally obtained funds in the amount of 105,638 Bahraini dinars (US\$ 280,952) were seized. As a result, an investigation conducted jointly with the FIU of other countries helped to identify a criminal organization in Bahrain run by Subject 1 and his accomplices. Following the legislation of the Kingdom of Bahrain, articles 64 and 111 of Law No. 4 of 2001, concerning the prohibition of money laundering and combating it, Subjects 1, 2, and 3 were found guilty of money laundering and cyber fraud, eventually sentenced to five years in prison and fined 5,000 Bahraini dinars (13,298 US dollars) [7, pp. 86-88].

Thus, summarizing the above, we can conclude that, analyzing the trends and levels of criminal operations committed by foreign enterprises with the participation of offshore companies of the Kingdom of Bahrain, we emphasize quite logical and subtle nuances: the commercial activity of the enterprise for the export of cheap raw materials and the import of imported goods operates under the guise of declared production; many foreign participants have such enterprises whose financial contributions are small and mainly serve to mask shady activities.

Being a winning and suitable zone for offshore companies, the Kingdom of Bahrain creates endless opportunities for the legalization of criminal proceeds, for reasons that the banking system of this region is prone to corruption and corrupt, and it is possible to buy and establish a bank for insignificant, meager amounts, and there is also a high demand for capital. To sum up, the use of Bahrain's offshore jurisdictions at the final stage of organized criminal activity in the economic sphere, including tax evasion, is the most individual, sometimes distinctive feature of laundering proceeds from crime and terrorist financing.



***Fig. 1. Ranking of countries in the fight against the legalization of criminal proceeds. Middle East and North Africa**

* As part of the study, the Basel Institute operates under the auspices of the United Nations Crime Prevention and Criminal Justice Program Network. The Basel AML Index includes a wide range of risk indicators, each of which has a different focus and coverage. The indicators used to calculate the rating are grouped into five basic categories with different specific weights:

- The quality of the anti-money laundering and terrorist financing system (65%).
- Risks of corruption and bribery (10%).
- Financial transparency and standards (10%).
- Public transparency and accountability (5%).
- Political and legal risks (10%) [8].

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