

REGIONAL ANTI-MONEY LAUNDERING COOPERATION IN THE AFRICAN UNION

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The major purpose of the paper is to discuss the problems relating to, and review the basic principles of, mechanism of anti-money laundering cooperation in the African Union. The latter is considered through the prism of efficiency in terms of institutional interaction among member states, and of the extent to which the potential of such interaction is fulfilled.

Such approach, in turn, calls for: identification of forms in which the states in the region of concern cooperate on the subject-matter; assessment of the extent to which such forms are efficient and are comparable with those of the Council of Europe and the United Nations, and; definition of the perspectives for African Union's anti-money-laundering cooperation mechanism improvement.

The paper includes the results of comparative analysis of various international conventions and local acts and regulations, and considers the compliance of regional "soft law" and institutional cooperation framework with the accepted anti-money-laundering standards, where it particularly discusses the characteristics of African Peer-Review Mechanism and the Centre for the Study and Research on Terrorism as essential elements for African Union member states' cooperation.

The author emphasizes several discrepancies, and concludes that, despite the existence of sufficiently developed regulatory framework in the region, its commitment to anti-money-laundering, and creation of the applicable monitoring mechanism, the African Union fails so far to achieve high efficiency implementing the proposed measures.

Key words: the African Union, regional cooperation, counteraction of criminality, financial criminality, corruption, money laundering.

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The 55 states of the African Union – home for approximately 1.1 bln people who contribute to cumulative 4 bln U.S. dollars of GDP – concentrate their effort, among others, on the issues related to combating money laundering, which are stemming from the agenda on fighting regional terrorism and corruption, as they have become intermixed with terrorist groups' activities and sources for their financing¹. This situation adversely affects security and stability in the region. However, as distinct from other regional unions and associations such as Asia-Pacific Economic Cooperation (APEC), the African Union has a status of multilateral institution, and therefore possesses the right to not only disseminate recommendations, but also to develop practical measures, instrumental in supporting cooperation on combating money laundering among its member states.

In the early 2000s, the member states of the African Union established African Peer-Review Mechanism (APRM) – a special monitoring mechanism designed to ensure adherence of the states to standards of good governance². The article deals with aspects of the African Union's experience in its utilization, and aims to consider money-laundering problem as a case study of testing APRM's effectiveness and efficiency.

The links between terrorism and transnational organized crime have become much clearer, with terrorist groups increasingly exploiting the pre-existing informal trade routes, as well as the black and illicit markets, to generate resources. The lucrative drug market supports a number of terrorist groups, fuels the traffic in arms and money laundering, generates violence and corruption, and, as a result, poses a serious threat to international peace and security³.

Money laundering and combating it remains an increasingly topical contemporary international problem that has its roots in economic, legal and political spheres. Analysis of the existing literature reveals the fact that the peculiarities (specific features) of interaction between the member states of the African Union on the issues related to combating money laundering are by far not the center of researchers' focus, and, moreover, is frequently beyond the scope of research. Particularly, several attempts to give insights into the nature and features of the measures taken in the framework of the African Union to combating money laundering have been undertaken in a number of recent studies⁴ [2; 5; 12; 13; 15; 16]. Yet the effectiveness in the use of institutional capacity of the African Union in this context has not been comprehensively characterized, and the clear outcome of corresponding regional efforts remains either unknown (at country level) or poorly understood (at regional level). In this situation, it is expedient to define

¹ [Zuma N.D. Report of the Chairperson of the Commission on Terrorism and Violent Extremism in Africa PSC/AHG/2(CDLV). Kenya, Nairobi, Peace and Security Council, 455th Meeting at the Level of Heads of State and Government, September 02, 2014. Available at: <https://au.int/en/speeches/20140902-0> (accessed 20 April 2018).

² Declaration on Democracy, Political, Economic and Corporate Governance. AHG/235 (XXXVIII). South Africa, Midrand, African Union and NEPAD Secretariat, June 18, 2002. Available at: http://aprm-au.org/admin/pdfFiles/aprm_dpcc.pdf (accessed 20 April 2018).

³ Zuma N.D. Report of the Chairperson of the Commission on Terrorism and Violent Extremism in Africa PSC/AHG/2(CDLV). Kenya, Nairobi, Peace and Security Council, 455th Meeting at the Level of Heads of State and Government, September 02, 2014. Available at: <https://au.int/en/speeches/20140902-0> (accessed 20 April 2018).

⁴ Bokosi F., Chikumbu T. Tackling Illicit Financial Flows from and within Africa. African Civil Society Circle, 2015. 5 p. Available at: <http://www.francophonie.org/IMG/pdf/afrodad.pdf> (accessed 20 April 2018)

the forms of cooperation of the member states on combating money-laundering in the framework of the African Union, to assess the effectiveness of their use in terms of the objectives set for such cooperation, and to conduct a comparative analysis of the approach employed by the Council of Europe and the United Nations. That may reveal the potential for further improvement of the member states' institutional and contractual cooperation, and, ultimately, provide grounds for development of relevant advisable recommendations.

The present article is a continuation of the author's research in the sphere of international cooperation in combating criminal offence in the financial sphere [9-11].

Primarily, the international context of money laundering problem emerged as a focus area for the African Union's member states, when it came to raising the effectiveness of anti-terrorist activities, and the African Union *"has created a broad regulatory framework for terrorism in the region, including a number of provisions on laundering of «dirty» money and financing of terrorism"* [3, p. 58]. Yet nowadays it is widely argued that Africa loses around 50 bln U.S. dollars annually due to illicit financial outflows, originating from the governments' and multinational companies' engagement in fraudulent schemes allowing for avoidance of tax payments and money laundering, hence impeding crucial development projects⁵. As it might be quoted: *"Blocking illicit outflows in the form of over-pricing, transfer pricing or money laundering or through other innovative methods, is critical to retain financial resources in the country and in the continent"*⁶.

The Organization of African Unity Convention on Prevention and Combating of Terrorism earlier laid the foundation of this framework July 1, 1999, which was signed and ratified by 50 (as of May 4, 2016) African states. In the aforementioned Convention, however, a reference to a range of problems related to money laundering issues was made only in the enacting clause. These provisions were subsequently concretized in the Action Plan of high-level intergovernmental meeting of the African Union for the Prevention and Combating of Terrorism in Africa, adopted in September 2002. The latter defined a clear set of steps, which were deemed necessary in order to improve the effectiveness of combating money laundering (para. 10, 13, 1), namely⁷:

1. To take account of the close relationship between terrorism and related crimes, such as drug trafficking, illegal distribution and trade in arms, corruption, money-laundering, all of which are constituted as transnational organized criminality;
2. To build capacity and train the necessary personnel, and make international technical assistance available in case of need;

⁵ Anderson M. Africa Losing Billions from Fraud and Tax Avoidance. The Guardian, 2015. Available at: <https://www.theguardian.com/global-development/2015/feb/02/africa-tax-avoidance-money-laundering-illicit-financial-flows> (accessed 19 April 2018).

⁶ Welcoming Remarks by H.E. Dr. Anthony Mothae Maruping, Commissioner for Economic Affairs on the Occasion of the High Level Event on Aid as Catalyst for Domestic Resource Mobilization in Africa. Ethiopia, Addis Ababa, July 24, 2013. Available at: <https://au.int/en/speeches/20130724-1> (accessed 20 April 2018).

⁷ Plan of Action of the African Union High-level Inter-Governmental Meeting on the Prevention and Combating of Terrorism in Africa Mtg/HLIG/Conv.Terror/Plan.(I). Algeria, Algiers, African Union, 11-14 September 2002. Available at: https://www.issafrica.org/af/RegOrg/unity_to_union/pdfs/oau/keydocs/PoAfinal.pdf (accessed 20 April 2018).

3. To cooperate with global financial institutions for the development of a comprehensive methodology for combating money-laundering and a methodology for evaluation process;
4. To prohibit anonymous bank accounts, as well as accounts for frontmen, and find the ultimate beneficiaries;
5. To establish adequate financial intelligence authorities;
6. To establish the African Center for Research and Study on Terrorism (ACRST) in order to centralize information, study and analyze terrorism and terrorist groups, as well as to develop relevant training programs;
7. To develop a necessary model regulatory framework able to incorporate best practices and ready for implementation of both global and regional standards on anti-money-laundering.

Measures to combat money laundering in the context of anti-terrorist activities of the African Union did not lead to the necessary intensification of the efforts of member states to implement them: Africa remained sluggish, which probably explains, why the African Union Convention on Preventing and Combating Corruption (AUCPCC) of July 11, 2003 (signed by 48 states as of March 11, 2018)⁸, has a separate attention to the laundering of the financial results of corruption acts⁹. The following goals are set before AUCPCC:

1. Support and promote the development of Africa by each participating state through mechanisms that require the prevention, detection, prosecution and elimination of corruption and related crimes in the public and private sectors;
2. Development, support and regulation of cooperation between participating states towards ensuring the effectiveness of measures and actions for the prevention, detection, prosecution and elimination of corruption and related crimes in Africa;
3. Coordination and harmonization of the policies and legislation of the participating states with a view to preventing, detecting, prosecuting and eliminating corruption and related crimes on the continent;
4. Supporting socio-economic development by removing obstacles to economic, social and cultural rights, as well as civil and political rights;
5. Establishment of necessary conditions for the formation of transparency and accountability in the management of public relations (public affairs).

In the relevant African Union Treaty, money laundering is perceived as a result of corruption actions, as stated in its Art. 6. Its provisions imposed on member states the obligation to take necessary legislative and other measures for criminalization of the following acts:

⁸ African Union Convention on Preventing and Combatting Corruption. Mozambique, Maputo, 2nd Ordinary Session of the Assembly of the Union, July 11, 2003. 28 p. Available at: <https://au.int/en/treaties/african-union-convention-preventing-and-combating-corruption> (accessed 20 April 2018).

⁹ Welcoming Remarks by H.E. Dr. Anthony Mothae Maruping, Commissioner for Economic Affairs on the Occasion of the High Level Event on Aid as Catalyst for Domestic Resource Mobilization in Africa. Ethiopia, Addis Ababa, July 24, 2013. Available at: <https://au.int/en/speeches/20130724-1> (accessed 20 April 2018).

1. Conversion, transfer or disposal of property, if it is known that such property is the result of corruption or related crimes, conceal illegal origin of such property, or provide assistance to any person involved in the commission of a relevant crime, by evasion from legal the consequences of his deed;

2. Concealment of the true nature, source, location, placement, movement or ownership of or rights in property that results from corruption or related crimes;

3. Acquisition, possession or use of property if it is known at the time of mastering that such property is the result of corruption or related crimes.

The content of the “connected crimes” concept is explained in para. 1, art. 4 of the Treaty¹⁰. Peculiarities of the approach used with regard to money laundering, in comparison with the United Nations Convention against corruption of October 2003, include: firstly, that criminalization of acts by disposal of property only if the corrupt acts are known that such property is the result of corruption or related crimes, in order to conceal or hide the illegal origin of such property or to provide assistance to any person, involved in the commission of the relevant crime, by evasion from legal consequences of the deed (on the contrary, experts of the United Nations suggest criminalization of simple use of property, if it is known that it was received by criminal means); secondly, absence of separate mention of counseling criminals as a criminal act, since only criminalization is participation as a “*principal, co-director, agent, instigator, an accomplice or concealer, or in any other form in the commission or attempt to commit, in cooperation or in collusion*” any of the conventional acts¹¹.

The African Model Anti-Terrorist Law (AMATL) was introduced at the 17th Session of the Assembly of the African Union in Malabo (June 30 - July 1, 2011)¹², and its further adoption was highly positively received by the expert community. Yet the assessment of the activities of the African Union in the context of the fight against terrorism remains very cautious. To confirm that, the opinion expressed, du Plessis [4] could be referred to: it is noted that the adoption of the AMATL was aimed chiefly at providing assistance to member states in their effort to secure compliance with the requirements of the regional Convention on the Prevention and Combating of Terrorism of July 1, 1999, as well as other international legal instruments in the relevant sphere of cooperation, including those developed within or under the auspices of the United Nations. As argued by du Plessis in [4, p. 56]: “*Without aiming at imposing formally binding requirements on states, such a model law, forms a «blue book» for the effective implementation by states of regional and international legal instruments, providing guidance and a model that reflects African perspectives and mechanisms aimed at improving*

¹⁰ African Union Convention on Preventing and Combatting Corruption. Mozambique, Maputo, 2nd Ordinary Session of the Assembly of the Union, July 11, 2003. 28 p. Available at: <https://au.int/en/treaties/african-union-convention-preventing-and-combating-corruption> (accessed 20 April 2018).

¹¹ Ibid. Sub-para. (i), para. 1, p. 4

¹² The African Model Anti-Terrorism Law: Final Draft as Endorsed by the 17th Ordinary Session of the Assembly of the Union. Equatorial Guinea, Malabo, Assembly of the Union, June 30 - July 1, 2011. Available at: <http://caert.org.dz/official-documents/african-model-law-en.pdf> (accessed 20 April 2018).

international cooperation on terrorism. Innovative aspects of the model law <...> were the provision of a new «African arrest warrant» and the development of a «black list» of terrorist organizations in Africa. Despite noted positive tendencies and efforts on the part of the African Union to strengthen criminal justice regimes <...> the legal framework of the African Union is subject to a number of weakening factors”. The positive role of AMATL is also recognized in the study by Ewi [6, p. 163]: “The Model Law is ready to use technical assistance or support for African States in support of the relevance of their legislation and provides guidance on the effective implementation of international and regional instruments on combating terrorism”.

However, the approach used in it assumes a number of differences, if compared to the Convention on Laundering, Detection, Seizure and Confiscation of Proceeds of Crime and on Financing Terrorism, issued by the Council of Europe as of May 16, 2005 (CETS No. 198)¹³, which states the following:

1. *“Involvement of persons, if they should have been to assume that the property is an income received by a criminal way”*

According to para. (a), item XXV, art. 4 of the corresponding model law, it is assumed that, persons who are the case of money laundering, should have been assumed that, the property is the income received by criminal way.

Para. 3, Art. 9 of the Warsaw Convention states that criminalization of the relevant acts is a possible, but not a mandatory option. In addition, the developers of the Warsaw Convention also assume as an option to prosecute, if they suspected that the property turns out to be an income received in a criminal way. The last option was not taken into account by the developers of AMATL.

2. *“The obligation to declare when crossing the state borders of not only cash and bearer securities, but also electronic money”*

According to Para. 3, Art. 13 of the Warsaw Convention, “each Party accepts legislative and other necessary measures to identify a significant physical movement across the border of cash and corresponding securities to the bearer”. Developers of AMATL, in turn, not only borrowed this provision, but also expanded it through inclusion of the obligation to declare cross-border transfers effected electronically (p. 25).

Also, AMATL contains and applies a more specific interpretation of the “property” concept. Thus, while the Convention on Laundering in its Para. (b), Art. 1 indicates that “property of any kind, real or immaterial, movable or immovable, and legal acts or documents giving the right to property or a share in this property”, the developers of AMATL use a more specific interpretation of the same concept. Those are “assets of any kind, they are tangible or intangible, movable or immovable, place of purchase, and legal documents or tools in any form, including electronic or digital, evidence of the right to or participation in such assets, including, among others, other things, bank loans, traveler’s checks,

¹³ Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198). Council of Europe, May 16, 2005. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/198> (accessed 20 April 2018).

money transfers, shares, securities, debt securities, payment orders (drafts) and letters of credit”¹⁴.

As noted by Fox in [8], AMATL was aimed at creation and development of a set of provisions and principles for Africa as a continent that would ensure proper coordination of efforts of the member states of the African Union. At the same time, it should also be recognized that *“the lack of agreement on the implementation of many of the deferred measures until their entry into force in 2014 and the continuation of disputes in most states about them. <...> Only one of the three member states adopted the legal provisions of the African Union on combating terrorism, that does not only make the arrest, extradition and harassment possible, but also contributes to the lack of coordination and ineffectiveness of their efforts”* [8, pp. 76-77]. There is considerable confidence in supporting the burden of financing measures to counter radical groups through foreign aid, with the unwillingness of African states to adequately finance remedial measures, *“which can be seen as reflecting the unconvincing arguments of the African Union in prioritizing the task of combating terrorism from the point of view of the view of most member states”* [8, p. 77].

It deserves special attention that, for many African states the challenge to development is not necessarily the institutionalization of new policy measures or the adoption of new laws and regulatory steps, but rather the implementation gap, as the set of previously developed and manifested measures mostly remains non-operational [28, p. 226]. Among other contemporary incentives, that prompted the establishment of the African Peer Review Mechanism (APRM) in 2003, as a part of a New Partnership for Africa’s Development (NEPAD) adopted October, 2001, allowing for (or at least aiming at) a holistic regional monitoring, and further possible replication among member states, of best available practices in a particular area of activities.

Para. 71 of NEPAD contains a strong political commitment of African leaders to ensure that a set of standards, including the standard of good governance, is maintained¹⁵. In turn, APRM became a reflection to this commitment, and facilitates implementation of the relevant standards, being a unique mechanism in terms of the breadth of its action [15, p. 84; 14, p. 243]. Reliant upon this mechanism, it proves possible to assess the effectiveness of the member states’ work in four key areas: democracy and political governance; economic management; corporate governance, and; socio-economic development. Within economic management area, the separately mentioned activity is the fight against corruption and money laundering¹⁶. Yet it is worth mentioning that participation in APRM is voluntary, and the mechanism’s geographical coverage is limited to 33 African states (among them, 17 have undergone a mon-

¹⁴ Ibid., item XXXII p. 4

¹⁵ The New Partnership for Africa’s Development (NEPAD). Nigeria, Abuja, October 2001. 59 p. Available at: <http://www.nepad.org/resource/new-partnership-africas-development> (accessed 20 April 2018).

¹⁶ Objectives, Standard, Criteria and Indicators for the African Peer Review Mechanism NEPAD/HSGIC-03-2003/APRM/Guideline/OSCI. NEPAD, 2003. P. 16. Available at: http://aprm-au.org/admin/pdfFiles/aprm_osci.pdf (accessed 20 April 2018).

itoring process as of 2013)¹⁷, which leastwise limits the pace of regional governance improvement.

The monitoring process itself is undertaken in 5 stages, of which 3 should not exceed the period of 6 months (calculated from the beginning of the 1st stage and until the end of the 3rd), namely:

1. Preparation and Self-Assessment (a study is conducted on the monitoring group information on the political, economic and corporate governance in the country on the basis of data, provided by the Secretariat of the African Monitoring Mechanism, national, regional, subregional institutions; these documents are then used to prepare for the Country Review Visit):

2. Country Review Visit (direct visit to the territory of the state of monitoring a group to collect the necessary information from government representatives, politicians, parliamentarians, active members of civil society);

3. Preparation of the final country assessment (preparation (drafting) of the report by the monitoring group, with involvement of the state in consultation mode);

4. The Peer Review (consideration, discussion and approval of the report by the heads of APRM states and governments; possible identification of corrective action to be taken, and, should that be deemed necessary (should the country under review be willing to improve the situation in a certain area), application of peer pressure and provision of possible assistance);

5. Presentation of the report to the public and African Institutions (providing the report with key regional and subregional structures, such as the Pan African Parliament, the African Human Rights and Peoples, regional economic communities, and other groups; further, the report is made publicly available).

Primarily, the international context of money laundering problem emerged as a focus area for the African Union's member states, when it came to raising the effectiveness of anti-terrorist activities

Yet nowadays it is widely argued that Africa loses around 50 bln U.S. dollars per year, which is caused by illicit financial outflows originating from the governments' and multinational companies' engagement in fraudulent schemes allowing for avoidance of tax payments and money laundering. These might have otherwise been invested in a number of important regional development projects.

The conducted analysis proves the fact that the regulatory framework for combating money laundering in the African Union is sufficiently developed, yet it remains lacking practical implementation and coherence in approach with relevant international standards. In order to consolidate the efforts of African states, to embed the provisions and principles incorporated in regional laws, acts and regulations (AUCPCC, AMATL, as well as various other conventions and regulations), and pool a piecewise effort towards development of a common agenda aimed at transforming the continent and ensuring

¹⁷ NEPAD Strategic Plan 2014-2017. South Africa, Johannesburg, New Partnership for Africa's Development, 2014. Pp. 8-9 Available at: <http://www.nepad.org/download/file/fid/2828> (accessed 20 April 2018).

its better future, a unique peer review mechanism – APRM – has been implemented in 2003 based on the foundations of NEPAD (2001).

Despite the fact that APRM itself proves to be of progressive nature, its effectiveness remains far from perfect – mostly due to the presence of shortcomings, such as: purely advisory nature of the findings contained in the reports; voluntary participation in the monitoring process, and; lack of subsequent monitoring of the implementation of the recommendations [15, pp. 85-86]. Even more might be found in relevant study of Adejumobi and Olukoshi, [1, pp. 225-235]; in particular, it is argued that the monitoring mechanism: does not imply evaluation of existing informal institutions; is too broad scope; needs significant human and financial resources to comply with the recommendations of the monitoring group with the limited capabilities of the African states; suffers the lack of unity in the approach to ensuring the proper functioning of the African monitoring system at national levels among participating States; is broadly characterized by insufficient level of dissemination of information on activities of the African monitoring mechanism that threads the avoidance of misinformation, and is facilitative of the formation of inflated expectations.

The African monitoring mechanism is not the only example of institutional cooperation among African issues of combating money laundering. A significant role in support to the appropriate level of cooperation in the relevant field belongs to ACRST. Among other things, special attention is paid to the implementation of measures to anti-money laundering, in particular to the adoption of the necessary legislation for the seizure and confiscation of property received by criminal means, and the introduction of a financial monitoring system¹⁸. Besides, in addition, the activities of ACRST are also aimed at improving the skills of staff in terms of law enforcement. For example, with the involvement of its experts, issues of combating money laundering were discussed during the National Training Course on Combating Terrorism in Mauritania (Nouakchott, 8-19 June 2014)¹⁹ and multiple other regional events.

Admittedly, despite all the efforts of the African Union to combat money laundering, the regional progress remains insignificant. The main underlying reason for this is the lack of necessary political will, limited opportunities for the implementation of necessary measures, and, ultimately, non-compliance of activities of the member states²⁰.

In general, it might be admitted that the regulatory framework for combating money laundering in the African Union seems sufficiently developed – both in anti-terrorist and corruption fighting contexts. At the same time, it is not necessary to ascertain the achievement of sufficient effectiveness of the fight against money laundering in the framework of the African Union as a whole. For example, Sharif points out that “<...>

¹⁸ Evaluation Mission of ASCRT to Mozambique, Botswana, Zambia. African Centre for Study and Research on Terrorism, 2012. Available at: <http://caert.org.dz/?p=520> (accessed 20 April 2018).

¹⁹ National Training Course on the Fight Against Terrorism for Mauritania. African Centre for Study and Research on Terrorism, 2014. Available at: <http://caert.org.dz/?p=1139> (accessed 20 April 2018).

²⁰ Bokosi, F., Chikumbu, T. Tackling Illicit Financial Flows from and within Africa. African Civil Society Circle, 2015. P. 3. Available at: <http://www.francophonie.org/IMG/pdf/afrodad.pdf> (accessed 20 April 2018).

the public (non-profit) sector is still largely unaware of its susceptibility to the forms of its use by terrorist and extremist groups. Public organizations are often small, informal and not properly regulated. Terrorist and extremist groups <...> *take advantage of such shortcomings for the illegal transfer of large sums of money under the guise of carrying out public activities*²¹. Another important area is believed to be strengthening of the institutional capacity of financial intelligence agencies, which is a key factor in the strategy of the African Union to combat terrorism and extremism.

Another direction to improve international legal cooperation in combating money laundering in the African Union is the need to expand such cooperation by implementing international legal instruments aimed at countering other types of transnational crimes. According to Ford [7, p. 77], this is due to the existing relationship between the various types of crime, in particular terrorism, drug trafficking, illicit trade in arms, trafficking in human beings and money laundering.

Despite the existence of sufficiently developed regulatory regime to fight against money laundering, and a well-established African monitoring mechanism, the African Union, so far, failed to achieve high efficiency in its internal work towards robust practical implementation of the proposed measures. This negatively affects the overall results of its anti-money-laundering effort, as per constrained by the lack of achievement of regional cooperation potential among the African Union' member states.

References:

1. Adejumbi S., Olukoshi A. (eds.) *The African Union and New Strategies for Development in Africa*. Amherst, New York, Cambria Press, 2008. 483 p.
2. Chabal P. The Quest for Good Government and Development in Africa: is NEPAD the Answer? *International Affairs*. 2002, vol. 78 (3), pp. 447-462.
3. Desta T.A., Cocayne J. (eds.) *Baseline Study on Anti-Money Laundering and Countering the Financing of Terrorism in the IGAD Subregion*. New York and Addis Ababa, Center for Global Counterterrorism Cooperation, 2012. 73 p.
4. du Plessis A. A snapshot of international criminal justice cooperation against terrorism since 9/11. In van den Herik L., Schrijver N. *Counter-Terrorism Strategies in a Fragmented International Legal Order*. Cambridge, Cambridge University Press, 2013. pp. 29-67.
5. Edozie R.K. Promoting African 'Owned and Operated' Development: a Reflection on the New Partnership for African Development (NEPAD). *African and Asian Studies*. 2004, vol. 3 (2). pp. 141-169.
6. Ewi M. The Role of Regional Organizations in Promoting Cooperation on Counter-Terrorism Matters: the European and the African Institutions in a Comparative Perspective. In van den Herik L., Schrijver N. *Counter-Terrorism Strategies in a Fragmented International Legal Order*. Cambridge, Cambridge University Press, 2013. pp. 128-180.
7. Ford J. *African Counter-Terrorism Legal Frameworks: a decade after 2001*. South Africa, Pretoria, Institute for Security Studies, 2011. 177 p.
8. Fox T. War Without End? Terrorism, Policy and Conflict Management in Africa. In Mawere M., Marongwe N. *Violence, Politics and Conflict Management in Africa*. Cameroon, Mankon,

²¹ Statement by Dr. Tarek A. Sharif, Head, Defence and Security Division, Peace and Security Department, on Legal Instruments on Combating Financing of Terrorism through Money Laundering and Financial Crimes. Ethiopia, Addis Ababa, African Union Workshop on Legal Instruments on Combating Financing of Terrorism Through Money Laundering and Financial Crimes, November 28-29, 2016. Available at: <http://www.peaceau.org/uploads/statement-financing-of-terrorism-final.pdf> (accessed 20 April 2018).

- Langaa Research & Publishing CIG, 2016. pp. 53-88.
9. Gambarov H. Features of Norms of Soft Law in the Area of International Cooperation on Countering Financial Criminality. *Comparative-Analytic Law*. 2015, no. 5. pp. 325-329. (in Russian).
 10. Gambarov H. International and legal basis of counteracting financial crimes in the context of realization (on the example of FATF). *Law*. 2015, no. 3, pp. 159-170. (in Russian).
 11. Gambarov H. The Origin of International Legal Cooperation in the Fight Against Crime in the Financial Sphere. *Scientific Bulletin of National University of State Tax Service of Ukraine*. 2013, no. 4(63), pp. 228-234. (in Russian).
 12. Hope K.R. Toward Good Governance and Sustainable Development: The African Peer Review Mechanism. *An International Journal of Policy, Administration, and Institutions*. 2005, vol. 18, no. 2, pp. 283-311.
 13. Juma M.K. Africa's Governance Audit: the African Peer Review Mechanism. *New Economy*. 2004, pp. 178-180.
 14. Kajee A. NEPAD's APRM: a Progress Report, Practical Limitations and Challenges. *SA Yearbook of International Affairs 2003/2004*. South Africa, Johannesburg, SAIIA, 2004. pp. 243-258.
 15. Makinda S., Wafula Okumu F., Micker D. *The African Union: Addressing the Challenges of Peace, Security and Governance*. London, New York, Routledge, 2016. 236 p.
 16. Melber H. African Development: the New Partnership for Africa's Development (NEPAD) – Old Wine in New Bottles? *Forum for Development Studies*. 2002, vol. 29. pp. 186-209.
 17. Udombana N. Fighting Corruption Seriously? Africa's Anti-Corruption Convention. *Singapore Journal of International and Comparative Law*. 2003, no. 7. pp. 447-488.

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РЕГИОНАЛЬНОЕ СОТРУДНИЧЕСТВО ПО ВОПРОСАМ ОТМЫВАНИЯ «ГРЯЗНЫХ» ДЕНЕГ В РАМКАХ АФРИКАНСКОГО СОЮЗА

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Целью настоящей статьи является рассмотрение проблем, связанных с функционированием механизма сотрудничества государств-членов Африканского союза по вопросам противодействия легализации (отмыванию) доходов, полученных преступным путём, а также раскрытию базовых принципов такого сотрудничества. Автор даёт оценку результативности институционального взаимодействия государств-членов Союза, а также степени использования потенциала сотрудничества стран.

Подход автора реализован посредством определения используемых в рамках Африканского союза форм сотрудничества государств-членов по вопросам противодей-

ствия отмыванию «грязных» денег, проведения сравнительной характеристики подходов к данной проблеме со стороны стран Союза, со стороны Совета Европы и ООН, а также определения перспектив дальнейшего усовершенствования такого сотрудничества.

В статье содержится сравнительный анализ и сопоставление международных конвенций и принятых на международном уровне стандартов с практикой регулирования вопросов, связанных с противодействием отмыванию «грязных» денег, на региональном и национальном уровнях стран Африканского союза. Особое внимание уделено функционированию Африканского механизма коллегиального обзора и Центра исследования и изучения проблем терроризма, являющихся важными платформами для взаимодействия стран-членов Африканского союза.

Автор выявляет ряд разногласий и противоречий в рамках исследования и приходит к выводу, что, несмотря на достаточно развитое регулирование вопросов, связанных с противодействием отмыванию «грязных» денег, на региональном уровне, приверженность стран цели прекращения мошенничества в финансово-экономической сфере, а также работу соответствующего регионального механизма мониторинга, к настоящему времени страны Африканского союза ещё не достигли высоких результатов в своей борьбе с легализацией (отмыванием) доходов, полученных преступным путём.

Ключевые слова: Африканский союз, региональное сотрудничество, противодействие преступности, финансовая преступность, коррупция, легализация (отмывание) доходов, полученных преступным путем.

Список литературы:

1. Adejumbi S., Olukoshi A. (eds.) *The African Union and New Strategies for Development in Africa*. Amherst, New York, Cambria Press, 2008. 483 p.
2. Chabal P. *The Quest for Good Government and Development in Africa: is NEPAD the Answer?* // *International Affairs*. 2002, vol. 78 (3), pp. 447-462.
3. Desta T.A., Cocayne J. (eds.) *Baseline Study on Anti-Money Laundering and Countering the Financing of Terrorism in the IGAD Subregion*. New York and Addis Ababa, Center for Global Counterterrorism Cooperation, 2012. 73 p.
4. du Plessis A. *A snapshot of international criminal justice cooperation against terrorism since 9/11* // van den Herik L., Schrijver N. *Counter-Terrorism Strategies in a Fragmented International Legal Order*. Cambridge, Cambridge University Press, 2013. pp. 29-67.
5. Edozie R.K. *Promoting African 'Owned and Operated' Development: a Reflection on the New Partnership for African Development (NEPAD)* // *African and Asian Studies*. 2004, vol. 3 (2). pp. 141-169.
6. Ewi M. *The Role of Regional Organizations in Promoting Cooperation on Counter-Terrorism Matters: the European and the African Institutions in a Comparative Perspective* // van den Herik L., Schrijver N. *Counter-Terrorism Strategies in a Fragmented International Legal Order*. Cambridge, Cambridge University Press, 2013. pp. 128-180.
7. Ford J. *African Counter-Terrorism Legal Frameworks: a decade after 2001*. South Africa, Pretoria, Institute for Security Studies, 2011. 177 p.
8. Fox T. *War Without End? Terrorism, Policy and Conflict Management in Africa*. In Mawere M., Marongwe N. *Violence, Politics and Conflict Management in Africa*. Cameroon, Mankon, Langaa Research & Publishing CIG, 2016. pp. 53-88.
9. Гамбаров Г.Д. Особенности использования норм «мягкого» права в сфере международного сотрудничества по вопросам борьбы с финансовой преступностью // *Порівняльно-аналітичне право*. 2015. № 5. С. 325-329.
10. Гамбаров Г.Д. *Международно-*

- правовые основы борьбы с финансовой преступностью в контексте их реализации (на примере ФАТФ) // Юридична наука. 2015. № 3. С. 159-170.
11. Гамбаров Г.Д. Международно-правовое сотрудничество в вопросах борьбы с финансовой преступностью // Научный вестник Налоговой службы Украины. 2013. № 4(63). С. 228-234.
 12. Hope K.R. Toward Good Governance and Sustainable Development: The African Peer Review Mechanism // An International Journal of Policy, Administration, and Institutions. 2005, vol. 18, no. 2, pp. 283-311.
 13. Juma M.K. Africa's Governance Audit: the African Peer Review Mechanism // New Economy. 2004, pp. 178-180.
 14. Kajee A. NEPAD's APRM: a Progress Report, Practical Limitations and Challenges. SA Yearbook of International Affairs 2003/2004. South Africa, Johannesburg, SAIIA, 2004. pp. 243-258.
 15. Makinda S., Wafula Okumu F., Micker D. The African Union: Addressing the Challenges of Peace, Security and Governance. London, New York, Routledge, 2016. 236 p.
 16. Melber H. African Development: the New Partnership for Africa's Development (NEPAD) – Old Wine in New Bottles? // Forum for Development Studies. 2002, vol. 29. pp. 186-209.
 17. Udombana N. Fighting Corruption Seriously? Africa's Anti-Corruption Convention // Singapore Journal of International and Comparative Law. 2003, no. 7. pp. 447-488.

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Regional anti-money laundering cooperation in the african union.Â 6. Ewi M. The Role of Regional Organizations in Promoting Cooperation on Counter-Terrorism Matters: the European and the African Institutions in a Comparative Perspective. In van den Herik L., Schrijver N. Counter-Terrorism Strategies in a Fragmented International Legal Order. Cambridge, Cambridge University Press, 2013. pp. 128-180. Regional anti-money laundering cooperation in the african union. H.D. Gambarov. Baku State University. The major purpose of the paper is to discuss the problems relating to, and review the basic principles of, mechanism of anti-money laundering cooperation in the African Union. The latter is considered through the prism of efficiency in terms of institutional interaction among member states, and of the extent to which the potential of such interaction is fulfilled.