

GENERAL ANALYSIS OF GEORGIAN BANKS, THEIR INTERNAL ACTIVITIES AND MACHINATIONS

(Nino Gogatadze)

A. General description of the Georgian banking system

In 1875 Ilia Chavchavadze founded the Nobiliary Manorial Estate Bank of Georgia, which is considered to be the first one in the country. The aforementioned Bank supported the formation and the development of capitalistic relations in Georgia and served the general interests of landowners. It also financed cultural institutions. The process of development of the banking system continued until the beginning of the twentieth century, until Georgia became a Soviet Republic. All the achievements and traditions in the banking system gained before were in fact lost during the 70 years of Soviet rule, when the Georgian branch of “Sakhbanki” (State Bank) became a simple executor of directions from the Center.

Transformation of the Georgian banking system into an independent one was realized in 1980's and at the present moment it has a two level universal structure, which is comprised of National Bank and commercial banks serving as the bodies for monetary policy implementation and its regulation.

Transformation of the Credit and the Banking Systems developed on the background of heavy economic and political crises. In this period industry declined, external economic connections were ruined, domestic political problems became complicated, territorial sovereignty of the country was violated.

On a certain stage of banking system formation Georgian National Bank carried out extremely liberal credit and monetary policies, which in our opinion had no justification. Number of commercial banks rapidly increased as a result of incomplete legislation on banking, weak management of bank licencing, critical political events and a complicated criminal situation. Besides financial institutions founded as banks in many cases did not meet elementary demands and did not deserve the name of a bank. Also there were frequent cases,

when such institutions were specially created for certain people or groups of people, to support and cover their activities. This fact partially conditioned the creation of banking institutions and their extremely liberal and formal regulations (especially small and often changing demands for fixed assets).

As a result, by 1994 229 commercial banks¹ existed in Georgia and the banking system was so clumsy and difficult to regulate that on the one hand there was an urgent need for perfected banking legislation and on the other hand the National bank was forced to make demands for commercial banks more complicated and strict. The National bank also had to improve its licensee management and monitoring of its administrative processes.

In the following period, banking licenses for many banks were liquidated due to inaction and insufficient assets. At the same time Georgian National Bank began implementation of the banking system reform with the aid of the IMF, World Bank, Eurobank, and other international financial institutions. As a result of the reform 15 to 20 banks took leading positions in the banking system of Georgia. They were considered to be founders of the Georgian banking system according to the size of their active assets² (Bank of Georgia, TBC Bank, United Georgian Bank, Cartu Bank, Intellect Bank etc...). These banks took part in every economic transaction and had a direct impact on the country's political life. In this regard the issue of money laundering acquired a special significance for them.

The banks that are not so well known to the wide financial circles in the country are also interesting subjects for investigation. These less prominent banks are often working on the realization of certain financial projects or give services to concrete economic agents of the groups they represent. The noted circumstance increases the probability that these banks are involved in money laundering or other banking machinations. (We do not list the names of these banks here for obvious reasons).

¹ I. Managadze “ Banking System of Georgia at the Beginning of the XXIth century”; Bank 1 (2000): 3-10

² ibid

It must also be noted that the analysis of machinations in the Georgian banking system cannot be considered apart from the events that take place in the country. The Banking system of Georgia is a satellite of not only economic, political and other processes taking place in Georgia, but it is closely connected to such events as rapid increase of the gambling business, corruption, shadow economics, tax evasion, criminal activities (smuggling, arms and drug trade, kidnapping, other sorts of economic crime). On the one hand the banking system gives services and perpetuates these events and on the other hand the system itself is involved in the processes of money laundering and financial machinations. Considering present banking legislation and for other reasons, we avoid listing the names of banks, juridical and physical persons, who take part in the abovementioned processes.

B. Problems of illegal income legalization in Georgian banks

1. General considerations

Before we begin a direct analysis of the materials and concrete cases, we would like to say a couple of words concerning those general postulates that come out of the materials investigated by us. In our opinion commercial banks of Georgia are less involved in illegal income laundering processes, the main source of which is drug and arms trade, kidnapping of people for ransom and other crimes of this kind. Laundering of such “dirty” money in Georgia is mainly carried out by avoiding basic banks and is done more through casinos, real estate companies, and the companies purchasing and selling precious things. In the past several years in Georgia, (mainly in Tbilisi and two or three other cities) the net of gambling houses has acquired a special scale, as lotteries and other gambling businesses, elite restaurants, clubs and shops, have been opened left and right, while the country has huge economic problems, and the greater part of the population lives beyond the limits of poverty. We can draw historical parallels to support our argument: in the twenties, during the

prohibition in the USA, underground production and trade with alcoholic drinks created the possibility for receiving super high incomes, but after the law was abolished the source of the illegal income dried up. Mafia structures, which mainly fed on the gambling business, flourished during the prohibition, as the need for laundering money gained from bootlegging³ grew.

As for the involvement of the Georgian banking system in money laundering processes and other financial machinations, the participation of Georgian commercial banks in unconscientious financial operations connected with illegal turn over of state assets, manipulation of taxes and other economic crimes realized through bank operations, is more acute. Such circumstances are conditioned by the level of bank development, its power and stability and by the economic, juridical and political backgrounds existing in the country.

Another aspect of money laundering which points to specific features of the Georgian banking system is the transit function of commercial banks, which implies transit of dirty money from foreign countries via Georgian banks to a third country, to hide its origins. The abovementioned function is conditioned through more than one factor, where the Georgian geopolitical situation and the abolition of its territorial integrity is the main. (This last factor is a direct result of a geopolitical situation).

In the presented work we will consider the abovementioned aspects of banks, examine the machinations carried out at banks, analyze juridical and normative bases and corresponding mechanisms of regulation, etc. Furthermore, we wish to note that the given paper is not a complete analytical work, since the size restraints hamper a deeper analysis, not to mention all the difficulties connected with obtaining pertinent information.

2. Problems connected with the formation of a normative-legislative base

³ K. Ostrovski "Before Al Capone and After", Tbilisi, "Mardi", 1999

The starting point for analysis of money laundering in the banking system must be a consideration of the banking legislation and legislation on other types of economic crimes. Banking legislation in Georgia was formed in 1991 by adopting the laws of “Credit and monetary regulation in the Republic”, “Law of National Bank of Georgia” and “Law of banks and banking activities” simultaneously. The Supreme Council of Georgia on Aug. 2, 1992 adopted the resolution about the implementation of the abovementioned laws, according to which corresponding acts should have been worked out.

Unfortunately, the formation of a legislative basis for avoiding different types of machinations and their further development was not realized in the banking sector. Moreover, even in the spheres of financing which gave the government an opportunity to obtain information about the realization of different machinations (money laundering especially) the law was liberalized to such an unaccepted extent, that the situation supported the implementation and realization of more elaborate and accurate ways of financial machinations and methods of money laundering.

In order to deepen our discussion let us examine several examples. Among them we will see the changes in simplification of procedures for opening a bank account. Because of these changes it became absolutely impossible to form a perfect system of overall identification of customers.

It is generally known that one of the conditions of improving the procedures for opening a bank account and carrying out further financial operations against money laundering is the overall identification of bank customers according to international standards. Thus Instruction N5 for “opening a correspondent, foreign currency, current and temporary accounts in the banks of Georgia” issued by the Board of the National Bank of Georgia on 26, Feb., 1993 must be taken as the most important document of the regulatory normative bases of the banking system in Georgia. If the aforementioned instruction is

carried out it will provide the opportunity for proper customer identification. It also provides a list of rules for opening a bank account. It gives an exact list and amount of documents needed, along with specifications for separate juridical and physical persons on how to open an account (items 1-5). For example, there was a special rule for the Ministry of Domestic Affairs, Military units, and other units, for opening a bank account (item 6). The instruction also contained the rules for closing an account and other types of documents. In a word, it gave a very good opportunity to identify a corresponding juridical or physical person, account beneficiary holder or a real person who realized the operation. However, demands that were fixed in the instruction were not met, and afterwards the instructions underwent changes, which made the administration of machinations easier and safer.

To prove the importance of identification of customers and see the results of its neglect we will use the next example. In the 90's, processes which were connected with wealth redistribution, privatization of small and middle sized trading and industrial enterprises, obtaining tax benefits, took place in Georgia. According to the existing legislation, sums of money from privatization were transferred to special bank accounts, and the people taking part in privatization were to use bank services (same with representatives of shadow economics and criminals). It is natural that the criminal sector was not interested in revealing names during account opening and bank operations as they got hold of numerous privatized units. Besides, if we take in view that in Georgia very often the same people are involved in business, politics and power, it will be easy to understand how important it was for them to legalize their property and income and at the same time stay in the shadows if they were going to expand the net of privatized units after the first wave of privatization.

Thus, perpetrators and criminals of different profiles found it suitable to create the illusion that they have used loans as statutory capital for purchasing privatized units and then developed their businesses. This scheme was very profitable as it gave a chance to legalize

future illegal income (obtained from drug and arms trade.); this means that small and average sized units in the future would become means for money laundering. Similar processes took place in other countries too. The very term “money laundering” was born in the USA, when with the help of existing laundries, money gained from criminal activity, was legalized. This means that if we continue the chain of analogies and return back to Georgia, in our country this process must be called money “restauranting,” “money oilbusinessing,” “money supermarketing,” and so on.

Such machinations could not be done without active participation of banks, since they facilitated both official and unofficial transactions and processes. That is why it is natural that representatives of the shadow economy and different sorts of criminals worked out and implemented schemes of financial machinations that fit with the condition of the country and the banks played a leading part in them.

Legislation and normative bases of privatization, which was far from being perfect in Georgia, supported the realization of the schemes and gave chances for different kinds of manipulations during wealth redistribution.

Let us examine one seemingly harmless quotation from the Law on “Privatization of State enterprises in Georgia” (item 7) dated to 9, Apr. 1991. It directly implies that in order to privatize a state enterprise one can use “borrowed or other sources.” From this statement a notion originates that one could legalize money through a banking institution for purchasing state owned enterprises by “borrowing” it from the bank. Actually those groups that had an impact on a number of banks, successfully managed to get a hold of more and more enterprises and continued to launder illegally obtained money through these enterprises. It is also significant that in Georgia illegal money mainly flows from the alcohol market, smuggling, drug and arms trade etc.

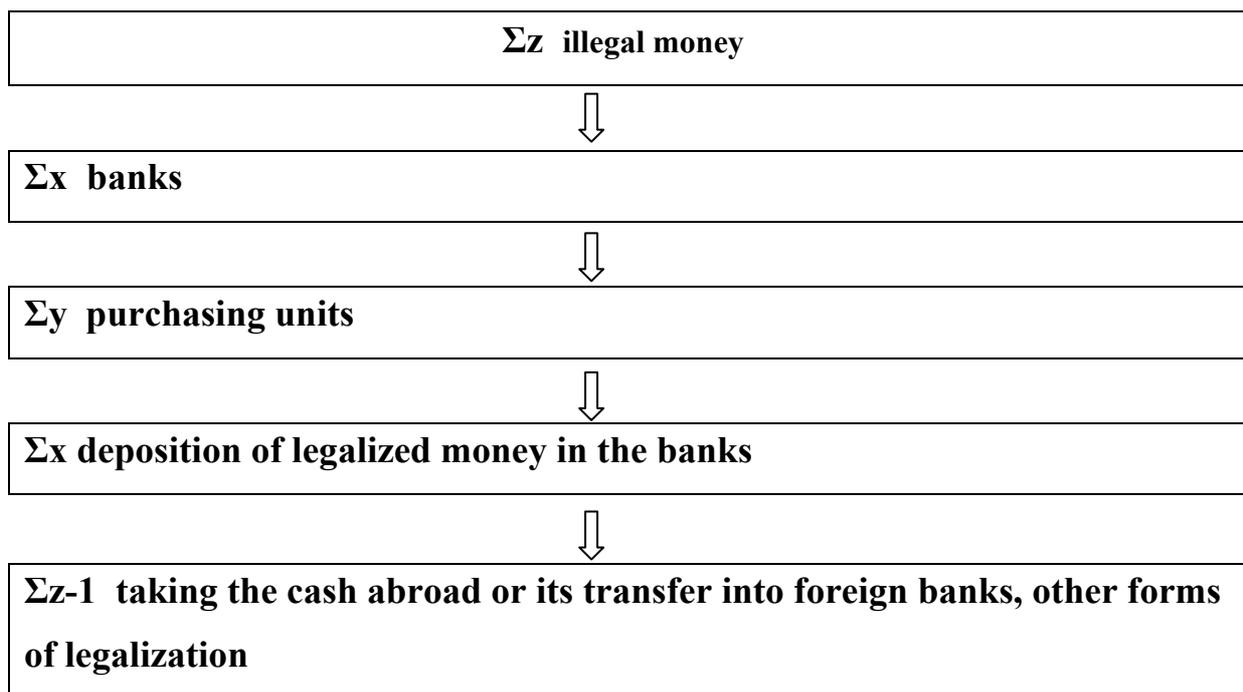
Thus, logically we see that for these types of machinations there was a necessary **Stage 1:** N financial group needs a controlled X bank to privatize property and legalize money or Σx group of banks.

In the **II stage** on money received from Σx bank on Σz money, unit Y or Σy is bought (legalization of initial capital)

In the **III stage** legalization of illegal income by Σy units is carried out.

IV stage again the Σx banks accumulate the $\Sigma z-1$ sum of money and transfer it to other banks or take the cash abroad.

In summary our scheme looks like this:



Scheme N I

It is natural that the scheme will lose its meaning if the identification of people standing behind the money, property and operation was carried out accurately.

We have noted that the abovementioned instruction N5 more or less provided the opportunity for identification of beneficiary customers, but for a number of reasons, among them bank confidentiality, the issue was so simplified and liberalized that in fact it became impossible to identify a list of juridical persons in advance of money laundering, not to say anything about bank accounts of physical persons and operations carried out in their name.

In the instructions of the orders N75 and N76 issued on 19, Aug. 1998 by the National Bank about opening bank accounts in local and foreign currency for resident and nonresident persons, the main accent was made on the registration in taxation bodies and awarding a code of the State Department for Statistics (items 2 and 3). The instruction was based on existing banking legislation and the law on “Entrepreneurs.” Thus for the personal identification the banks were to also use the data about the judicial registration. Unfortunately, in many cases registration procedures both in judicial, as well as taxation offices, carried a formal character and gave no chance for complete identification. Worse, it led banking institutions to a mistake. The problem was even more complicated by other factors like corruption, frequent changeability of normative acts, etc.

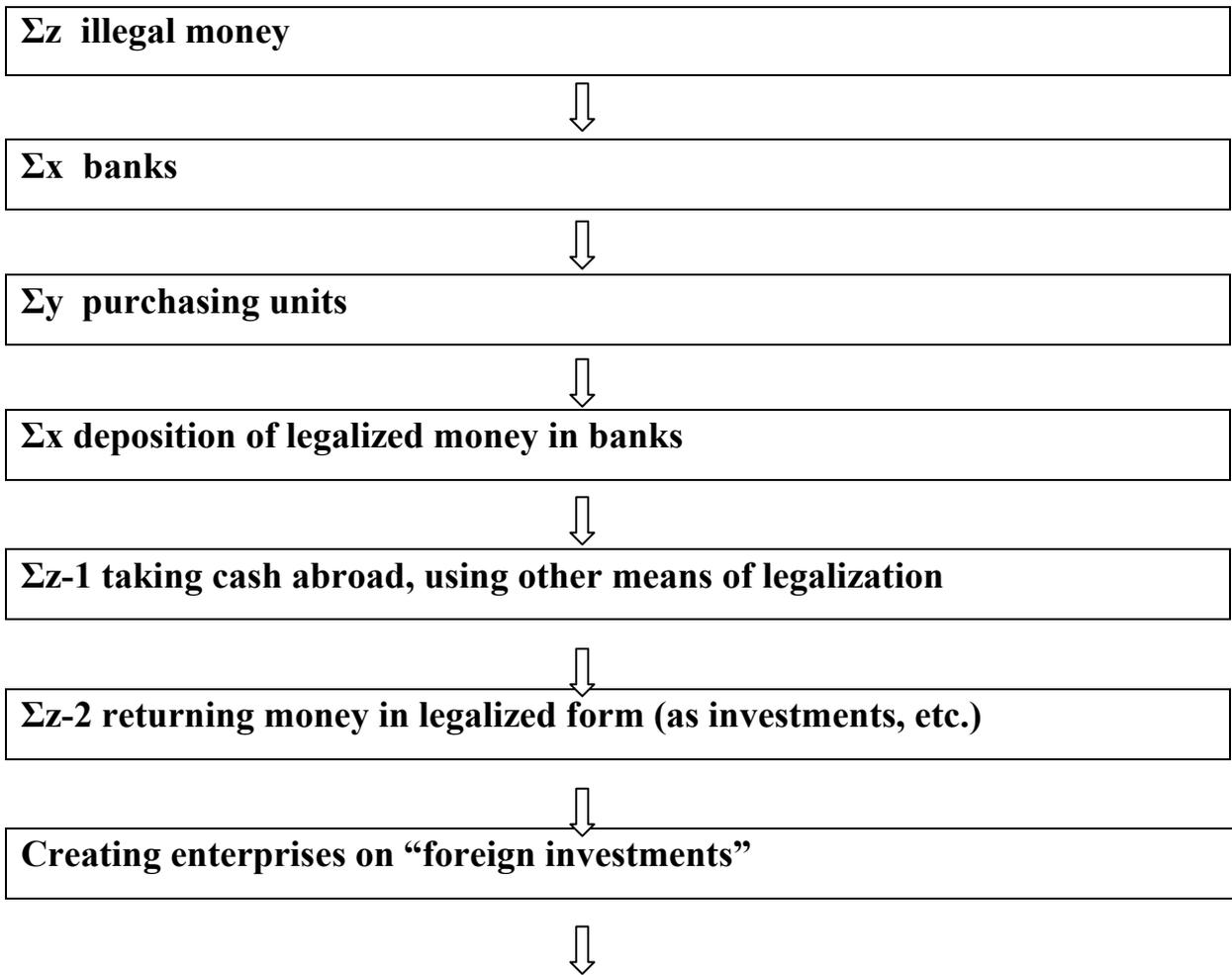
For example, on June 30th, 1995 the law on “foreign investments” was adopted, which was founded by tax exempted companies through foreign investment. Formally it was quite easy to “deserve” such an advantage. One needed to register an investment of 100 thousand US Dollar or more in the corresponding office. It is natural that such unprecedented liberalism was very profitable for all economic agents. Though very soon it became clear that such a law was destructive for Georgian economics and in 1996, Nov 12, instead of the abovementioned law a new one on “support and guarantees for investing activities” was adopted, which eliminated this advantage. Those juridical persons who were among the privileged and managed to legalize according to the old law were given five year extensions of their advantages. In fact these advantages were valid for about 150 elite companies (about

10 banking institutions among them), which were given greenhouse conditions and were not only above the competition but were completely left out of the attention of controlling bodies, especially of the taxation offices. In this situation dishonest juridical persons were given a green light for machinations. Besides, it must be mentioned that translation of the law on “foreign investments” in Russian, published in “Svobodnaya Gruzia,” was different from the original text. According to the Russian version juridical persons were liberated from VAT, which was not mentioned in the Georgian text. Besides, registration of companies founded on foreign investments according to the law (item 14) was to be realized via a special agency created at the Cabinet of Ministries, while in December of 1995 the Cabinet was liquidated and the agency was established later with one-year delay as a special Bureau at the Ministry of Foreign Trade and Economic Relations. In some cases, while receiving applications, the abovementioned Bureau considered documents about money transfer, forged at banking institutions, (foreign among them) as proof for foreign investments. As we can see, the situation created in that period created a wide specter of opportunities for machinations, the return of the money previously taken abroad out of Georgia among them. In fact, the scheme that we brought before has a continuation and has acquired the following form: See *Scheme 2*

As we can see wealth distribution took place in Georgia in the very first years of independence, which further grew in the phase of investment activity and criminal elements and groups took a certain part in these processes. By means of illegally obtained enterprises they realized the goal of legalizing illegal income via banks controlled by them. In this case the banks had two main functions:

- 1. *Legalization of initial capital;***
- 2. *Transfer of money abroad with the help of legalized initial capital (or again its legalization)***

16 ფაცტ, ფორ ტჰე პერფეცტ ეხეცუტიონ ოფ ტჰე სცჰემე ონე ცომპულსორე ანდ სუფფიციენტ ცონდიტიონ წას ტო ცონტროლ ა ბანკ. თაკინგ ინ ვიეწ ტჰე აფორემენტიონედ ანდ ტჰე სიტუატიონ ინ ეორგია წე ცან მაკე ა სიგნიფიკანტ ცონკლუსიონ: Iფ ცომპეტენტ ბოდიეს ჰოლდ რელიაბლე ინფორმატიონ აბოუტ ტჰე ცრიმინალ აცტივიტიეს ოფ ა ცერტაინ ჯურიდიცალ პერსონ ტჰენ ტჰერე ის ა გრეატ პრობაბილიტე ტჰატ ტჰე ბანკ გივინგ სერვიცეს ტო ტჰესე ინდივიდუალს ის ალსო ტაკინგ პარტ ინ ილლეგალ ტრანსაცტიონს, ანდ იფ ტჰესე ორგანიზატიონს (ჯურიდიცალ პერსონს) ჰავე ა მონოპოლე ონ ა სეგმენტ ოფ ტჰე მარკეტ, ტჰეე ცან დირეცტლე ცონტროლ ტჰე ბანკ. ესიდეს ტჰის პრობაბილიტე ის მუცჰ გრეატერ იფ ტჰე რელატიონს ბეტწვენ ტჰე ჯურიდიცალ პერსონ ანდ ტჰე ბანკ ცონტინუედ ფორ ა ლონგ პერიოდ ოფ ტიმე.



Reception of money $\Sigma z-3$ as a result of tax exemption



Their legal usage by Σx banks

Scheme N2

C. Examples of Complex Machinations Carried Out at Georgian Banks

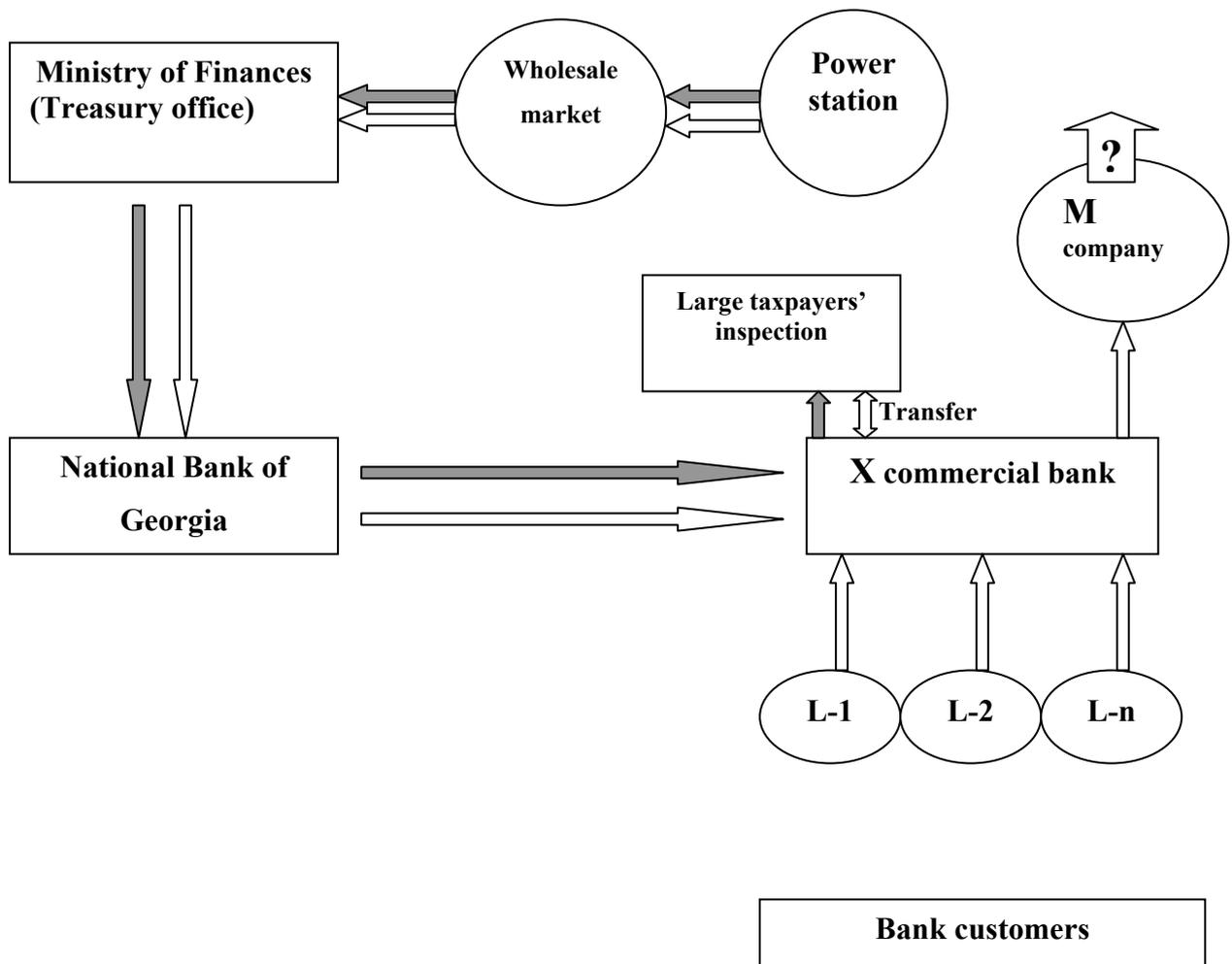
We should not think that the banks are used only as conductor instruments for illegal money. There are many cases, when high ranked public servants, bank employees and representatives of private sector, take part in complex machinations, where State units of strategic importance are at play. To prove this suggestion we would like to consider the following case where the financial machination was being prepared for eight months. In this case the criminals acted according to the following scheme:

- The wholesale market supplied customers with electric energy generated by a certain hydro electro power station; as a result of this the wholesale market was in debt of the station for **A** mil. GEL.
- Treasury office of the ministry of Finances according to the budget legislation covered the costs of electricity for displaced and retired people with the **B** amount of money
- Commercial Bank **X** which was on tax registration at the Large Taxpayers' Inspection paid beforehand **C** amount of money for VAT, which the taxation office forced it to do in order to fulfill the plan and simplify other machinations as well. It must also be noted that banks were liberated from VAT according to the sphere of their activity and still are, but despite this Bank **X** had paid in advance millions of Lari, which was one of the elements of the machination.
- A group of people who participated in a criminal transaction, registered a company **M** LTd under the name of a Georgian person with a foreign citizenship who opened

a bank account in the commercial bank **X** and signed a factoring contract with the bank, according to which company **M** would accumulate big sums of money at Bank **X**, the bank would ensure providing this sum in cash to the client.

- Simultaneously with this the power station gave the right to company **M** to raise **D** sum of money by discount from the wholesale market debt (**A** sum of money). For this purpose a fictitious agreement on doing repairs was signed. From the wholesale market two letters of the same requisition were sent, but with different contents to the Ministry of Finance. According to one of them the treasury was to assign money for displaced and retired people to cover electricity costs and according to the other the money was to be transferred to the bank account of company **M** in order to cover the existing debt of the power station (**D** amount of money)
- The Treasury, via the National Bank, indicating only the number of the letter on the taxation instructions, with the help of bank **X** made several transfers so that the money found itself in the bank account of the Large Taxpayers' Inspection (that is why two letters with the same registration numbers were sent). According to the official version, an impression was created that as if on the bases of the letter (we mean the letter about covering electricity costs for displaced people and retired) Ministry of Finances carried out counter conduct from one cell of the Budget (Treasury) to the other (Large taxpayers' Inspection). In fact bank **X** readdressed tax instructions of its customers, according to which the VAT of its customers was to be transferred to the Budget, to Large Taxpayers' Inspection in particular. Furthermore, the mentioned sums of money were removed from the bank accounts of the customers and accumulated on the bank account of the company **M** with the help of internal accounting (this kind of machination was made possible by prepaying VAT to the Large Taxpayers' Inspection).

- On the next stage bank **X** realized comparison of mutual instructions and counted towards the prepaid **C** mil. GEL. At the same time with the help of readdressed tax instruction of the customer the bank accumulated the same amount of **C** money, which according to factoring agreement it gave to the representative of company **M** in cash. After the plunder the representative of the company **M** fled away, the bank issued confirmed tax instruction for its customers. As we can see the main idea of the machination was to plunder money and mask the fact by legalization of the money. This is how the scheme looks:



Scheme N3

On the given scheme black arrows indicate movement of the money currents according to the officially existing version. The white arrows indicate stages of the machination. As we can see the routes of official and criminal flows are almost coinciding, which makes it extremely complicated to find and suppress it. Complexity of this process increases with the following circumstances:

1. Legislation is incomplete and the spheres of competence of different regulatory bodies are not defined. That is why they interfere with each other and make it impossible to study the problem in time. In particular, these bodies are Chamber of Control, Tax Department, procurator's office, Ministry of Internal Affairs, Ministry of Security, Bank inspection. Despite their number and abundance of functions they don't fully cover activities directed against illegal activities of juridical persons involved in economic crime.
2. On one hand qualification of the Regulatory Body employees is quite low, mechanism of clerical work is not perfect, on the other hand on the levels subordinated to the regulatory bodies there is no accurate registration, this makes it easy to realize financial machinations and falsification of the corresponding documents.
3. According to the legislation and institutional management of the Government investigation agencies and inquiry offices are separated from each other and procession issues are difficult to manage. For example, inquiry offices have no access to documentation concerning concrete issues

without the permission of the court. Incomplete conclusion about the case does not give an opportunity to start a criminal action.

4. Practice of taking into account and counter conduct on different levels of the Budget became a usual thing. This creates unreal impression about Budget fulfillment and supports realization of financial machinations.
5. Due to low salaries at the Governmental offices and some other reasons the level of corruption is high, so criminal transactions between public servants and perpetrators easily take place.

Let us examine one more case, which is also directly realized by participation of a banking institution. This case refers to the issue of foreign investments, which we have discussed before. At the same time it gives a clear picture of its geographical scale and transnational character of illegal income legalization.

In the United States on the bases of a document legalized by the Russian Consulate in the City of New York a company **A** was founded, while according to the same document, the branch office **B** of this company was founded in Moscow. After completion of corresponding notary action of the Russian Federation one of the regional courts of Tbilisi was petitioned by branch office **B** for the registration of a company **R** Ltd. 67% of the statutory assets according to the conditions was to be owned by branch office **B**. Since on the bases of international agreement notarial activities realized in the countries of CIS are mutually recognized, the abovementioned regional court granted the request for registration of the branch company **B**.

After the registration company **A**, with the help of a Turkish intermediary company sent to Georgia several expensive cars, to **R** association. These cars, while crossing the borders were considered by the customs and Agency for Foreign Investments as an foreign investment as their total price was more than 100 thousand US dollars, **R** was granted a

licence of a company founded on foreign investment, on the bases of which it was liberated from almost every tax.

At the same time company **R** opened several bank accounts at different banks and began independent commercial activities, connected with grain import in Georgia. An agreement was signed with one of the biggest **S** exporters on importing of **N** tons of wheat. Price of wheat per ton was defined to 280 US dollars, which was much higher than its market price for the given period.

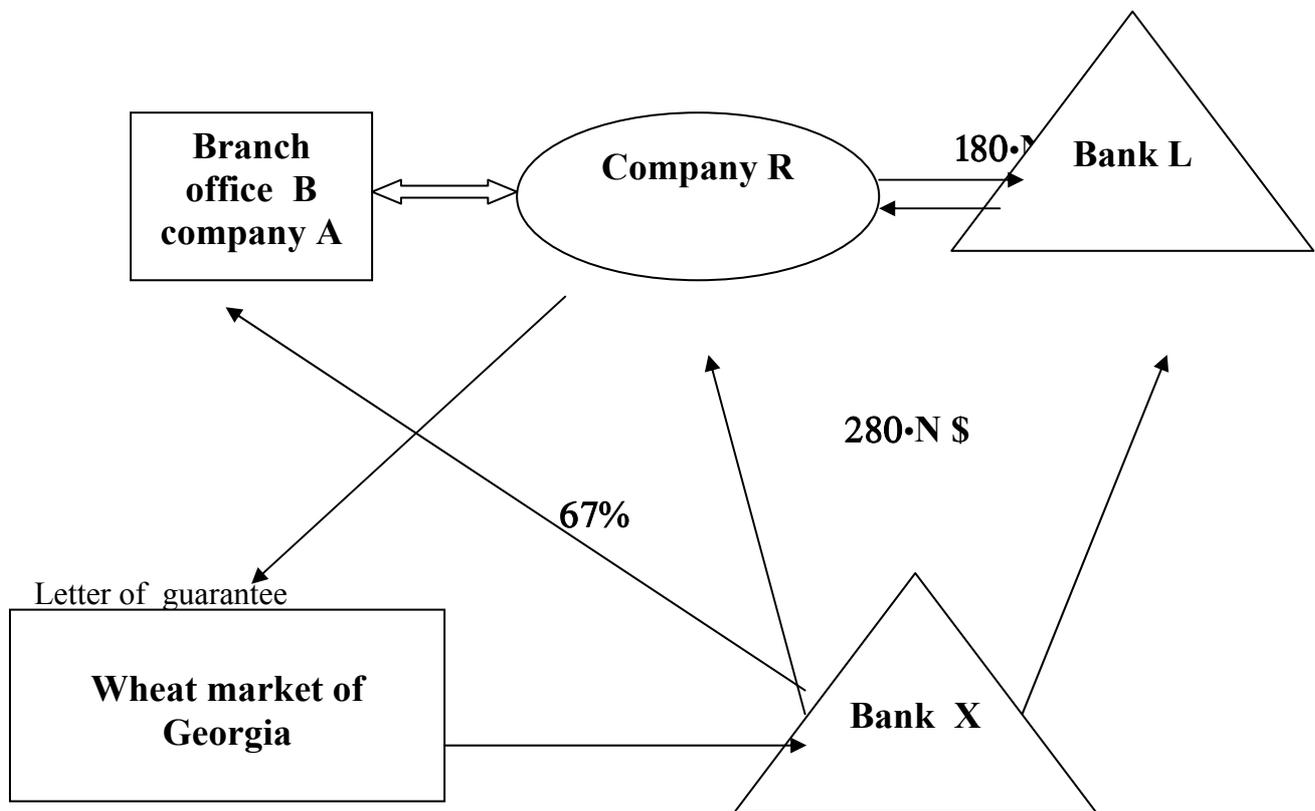
In order to realize this trading operation one of the banks (bank **X**) giving services to company **R** gave the company an opportunity to receive credits from European banks, but in the guarantee letter the essence of the operation was not indicated, it contained only the fixed sum of money.

On the bases of the bank letter of guarantee from a French bank **L** was taken a credit, but as the company bought wheat for 180 US dollars instead of 280\$, the credit made $\$180 \times N$. Besides it must be noted that the wheat was of poor quality and did not meet the demands indicated in the agreement. Thus on the bases of fabricated agreement the wheat imported to Georgia at the price of $\$180 \times N$, in the customs declaration was marked as $\$280$ per ton. In order to realize low quality wheat at a higher price than its fabricated price the machinators used government means and levers (part of the wheat was bought by the Government), and the money earned after realization converted by Bank **X**, was transferred abroad as if for covering the credit. Besides this 67% of the profit of company **B** was also transferred.

Difference in prices about $\$100 \times N$ ($280 \times N - 180 \times N$) in fact remained in the hands of machinators. What's more it leaked out from the country. Besides every participant of the operation was given a chance to cover the credit taken from the French bank by money

obtained as a result of criminal agreements, that means its laundering, as the information about issuing of the letter of guarantee was kept secret from the regulatory bodies.

The scheme of the abovementioned machination looks as follows:



Scheme N 4

The impudence of the machinators was also manifested in the fact that the company was exempted from every tax on the bases of existing legislation (as it was founded on foreign investment). As for wheat import, it was liberated from VAT at that time, which gave the machinators extra chances for super profit.

The criminal investigation of this case, was complicated by the vast geographical area and the foreign registration. Practically it was almost impossible to prove participation of bank X in the operation, as the letter of guarantee issued by the bank seemingly supported

import of high quality wheat in the country in cooperation with most reliable and famous partners.

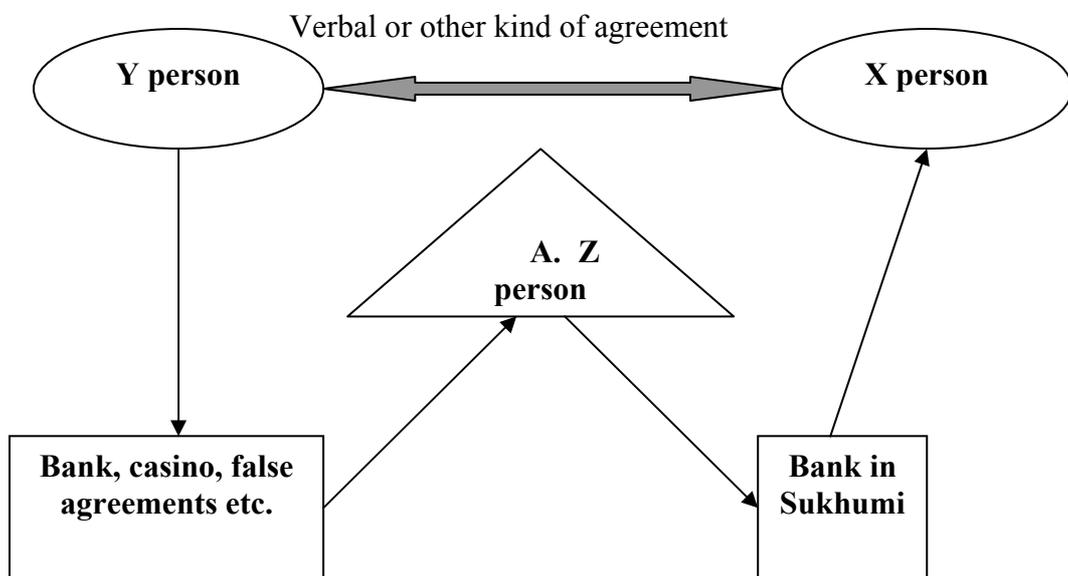
By the way the problem of inaccessibility to criminals and machinators is very acute not only for Georgia, but for countries which are rather more developed and experienced in criminal investigations. Facts of money laundering and other financial machinations in Georgia are even more complicated by the violation of territorial integrity.

On the territories of Abkhazia, Samachablo and Pankisi gorge restricted operation of Georgian jurisdiction creates convenient conditions for different kinds of obvious criminals to accomplish their malicious intentions. These “hot” places create a center of smuggling, drug and arms trade and other sorts of criminal activities, not to say anything about crime, which has acquired international scale. It is natural that the banking system adequately reacts to this situation. This finds its expression in the tendencies of criminal money laundering of local and foreign banks on the territory of Georgia and bordering countries. Since for such activities the territories without Georgian jurisdiction are used, it is impossible to use levers envisaged by international agreements. Let us examine a case, which confirms our suggestion and depicts permanently working criminal chain.

London mass media frequently features information about the possibilities of money transfer in Sukhumi, Abkhazia, which in fact is one of the links in the chain of money laundering. According to these announcements any N sum of money will be transferred to Sukhumi in no time, and bank service conditions are very close to conditions existing in Georgian banks. In this case criminals are mainly attracted by the circumstance that Georgian banking legislation does not operate in Sukhumi. Moreover, legitimate bank of Abkhazia is situated in Tbilisi and has no access to regulation of the banks on the territory of Abkhazia.

ბოვემენტონედ კრიმინალ ცჰაინ სერვეს ტჰე პურპოსეს ოფ სმუგგლინგ, დრუგ ანდ არმს ტრადე ანდ ოფ ფინანციალ სუპპორტ ოფ ოტჰერ კრიმეს. If ფაცტ

“კრიმინალ” გოოდს (სმუგვლინგ, დრუგს, ეტც) მოვე ინდეპენდენტლყ ფრომ ტჰეირ ფინანციალ მეანს, წჰილე ტჰესე ფინანციალ მეანს ტაკე ა დიფფერენტ ანდ მორე ცომპლიცატედ როოტ. შუცჰ ა სცჰემე სუპპორტს ისოლატიონ ოფ დირტყ მონეყ ფრომ ტჰე სოურცე ოფ იტს ორიგინ. ორ ეხამჰლე, სმუგვლედ გოოდს არე ეხცჰანგედ ბეტწვენ ეორგია ანდ ბჰჰაზია წიტჰოუტ აცტუალ რეიმბურსემენტ ონ ტჰე ცონდიტიონ ტჰატ ბე პრელიმინარყ აგრეემენტ პარტნერს წილლ გაინ პროფიტ ფრომ ანოტჰერ სოურცე ანდ ჰლაცე. თო მაკე იტ სიმჰლე, ლეტწს საყ ტჰატ ა პერსონ **X** სმუგვლეს ფრომ ბჰჰაზია ტო ეორგია, წჰერე ჰის პარტნერ – პერსონ ტაკეს ცარე ოფ ტჰე გოოდს. ნ ტჰე ნეხტ სტაგე ტჰის პერსონ წასჰეს მონეყ ბე ანყ მეანს (დეპოსიტს მონეყ ინ სმალლ სუმს ატ დიფფერენტ ბანკინგ ინსტიტუტიონს, სიგნს ფორგედ აგრეემენტს, უსეს გამბლინგ ბუსინესს, ეტც) ანდ ტრანსფერს მონეყ ტო ჰის ფორეიგნ ბანკ აცცოუნტ, ინ ოურ ცასე ინ ონდონ, წჰერე **X** ანდ პერსონს ალსო ჰავე ა პარტნერ **D**, წჰო აფტერ სომე მანიპულატიონს წიტჰ ტჰის მონეყ, ტრანსფერს იტ ტო ა ბანკინგ ინსტიტუტიონ ინ შუჰჰუმი, წჰერე პერსონ **X** წილლ რეციევე კრიმინალ პროფიტ ინ ცასჰ, ინ ფორეიგნ ცურრენცე. **I6** ტჰის ცასე ტჰე სცჰემე ლოოკს ლიკე ტჰის:



D. Preconditions of the fight against money laundering in Georgia and drawbacks in corresponding legislation

The aforementioned cases are enough to see how tightly the banking institutions are connected with the juridical and physical persons involved in criminal transactions. Unfortunately, in the fight against this criminal alliance Georgia is still very weak. All over the world, especially after the events of 09/11, they pay great attention to the problems connected with money laundering and the illegal flow of finances. At present, financial machinations and other negative aspects are more frequently considered to be connected with international terrorism.⁴ Thus, international organizations and allies of Georgia put off the condition of an unreserved adoption of juridical base against money laundering.

For financial and other kinds of support regarding this problem, there is little done in Georgia. Moreover, international experience is not yet analyzed. The essence, scale and specific features of the problem are not analyzed on the background of the existing situation in Georgia. There is no evaluation of the banking system of Georgia and its involvement in criminal processes, and the negative results of money laundering and its influence on Georgian economics and political stability are not investigated.

For example, despite the fact that in the recent past, terms like “money laundering”, “machinations in monetary and credit system” and others have been very intensively used in

⁴ Kikoria M. «Priorities of policy against money washing in Georgia”, Banki 1-2 (2002): 60-65

many discussions, the Georgian legislation gives no definition of these events. Besides, item 194 of the criminal code (legalization of illegal income) actually does not operate. It will be enough to mention that nobody was accused of this crime in Georgia for years. The term “illegal income” is not defined either. For more details we bring here the item 194 in its entirety.

“1. Legalization of illegal income, that is giving legal form to money or to any other property, also, hiding the source of illegal income, its place, movement, name of the real owner, or the right of the ownership, is prosecuted by penalty or imprisonment of up to five years.

2. the same activity a) by a group; b) repeatedly; c) using an official position; d) accompanied with obtaining a large income, is prosecuted by imprisonment of up to ten years and penalty. Note: in this item 10 thousand Lari is considered as large income”

As we can see, the legislation is rather vague and laconic. It is true that the aforementioned formulation considers the activities connected to money laundering to be crimes in general, which in international practice is considered to be positive, but it is impossible to deny that this item of the criminal code lacks clarity and concrete definition. It does not contain different stages of the legalization process and activities carried out by participants in different episodes of this process. It makes no differentiation of crime according to circumstances, and in the end does not meet the juridical demands. Furthermore, according to the opinion of experts the item does not contain physical elements of the crime defined by the Euro Council Convention and EU corresponding instructions on “laundering of the money gained from criminal activities, its revelation and confiscation.” For instance: purchasing illegal property, its ownership etc... (These elements are not present in item 194 of the criminal code).

Thus, due to the complexity and diversity of money laundering operations, many juridical issues are to be cleared up and given a more precise definition. Precise definition

should be given not only to the term “illegal income” and “legalization of illegal income” but to the circumstances of the crime. (For example, after the illegal income was gained, did the same person take part in every stage of the process or not? etc) Current formulations make the investigation and examination of crimes connected with money laundering vague and limit the possibilities for obtaining concrete results.

Practical experience shows that during the examination of concrete criminal activities it is very difficult and complicated for the judges and legislators to use item 194 of the criminal code. During a theoretical examination of a criminal case the exact amount of profit should be stated, which, in the case of money laundering, is difficult to do, especially since these are multilevel operations. Generally, it must be noted that the problem of money laundering, its definition, classification, and detailing, is very acute not only in Georgia but also in international law. The growth of this problem in the past created a necessity for elaborating on many international documents. As a result of this we can see significant progress.

To continue the theme of terminology and its definition it is also important to determine the “mental” elements of Money laundering. For example, item 194 of the criminal code does not recognize such juridical formulations as “conscious neglect” of money laundering. In fact, in all the cases of financial machinations discussed above, there was an obvious element of money laundering, but practically, it was neglected, which itself can be considered a crime. So, item 194 of the criminal code needs to more clearly define the role of neglectful behavior in money laundering.

The fact that within the current legislation and the criminal code of Georgia only two items have to do with the banking sphere should be considered a serious drawback. These two items are: item 2020 – illegal gathering of secret information and its spreading and item 208 – taking illegal credits. Meanwhile, in the items concerning economic crime (items 177-

221) the different forms are defined, beginning with theft and ending with commercial bribery.

Banking Law of Georgia does not give those dispositions, which concern money laundering operations or issues of their realization, their revelation and mechanisms of their prevention. On the bases of international practice we find it necessary to formulate an accurate and detailed definition of money laundering in the banking system and to establish an appropriate juridical base. We speak about banks using means obtained in a criminal way, their transformation, transfer and other kinds of activities, in order to legalize them, hide or mask their origin, source or the owner. We have presented all these elements in the examples above, but no effective measures were carried out against them. Nobody was prosecuted, neither were misappropriated funds returned to their true owners. Practice shows that working models in Georgia directed against economic crime are very ineffective. Coordination among juridical and monitoring bodies is imperfect; we see no final results, which is why we need to implement cardinal new systems and mechanisms.

One of the main spheres, where crime is concentrated and where intentions of machinators are realized is the banking system. Thus, it is in the banking system that a unique model should be created. A model in which banks based on private property will be obliged to take part in the realization of those events, which logically are outside of the banking purposes. But in order to expose crime and save themselves, banks must take measures that seem unnatural for them but are inevitable for the State.⁵ For example, as in one of the cases that we have demonstrated the bank should not be given the possibility to realize factoring operations with a fictitious company. In fact bank managers knew it quite well that the means of the company were obtained illegally, but willful and formal interpretation of the law gave the bank an opportunity to carry out criminal actions in order to gain a so called legal profit.

⁵ Gamza V., Tkachuk I. "Bank as a subject of fight against legalization of criminal income" Bankovskoe Delo, 5(2002): 25-31

The bank should not also have the possibility to make a surplus of millions of Lari at the Large Taxpayers' Inspection by means of preliminary payment. Here, misinterpretation of State interests in fulfillment of the Budget played a negative role. The bank should not have the possibility to create an illusion that sums of VAT really accumulated in the budget on the bases of taxation instructions for his clients and not on the bank account of a machinating company. In this case, a decisive factor was the circumstance that it was possible to realize mutual transfers between Tax Inspection and the bank, while such practice is restricted by normative acts. The bank should not have the possibility to accumulate huge masses of cash, which are given to an unidentified person in cheques, while other organizations have to wait for months for the money for their salaries, which is much less in amount. Here, the bank monitoring and regulatory system and subjective factors of individual bank administrations played their negative role.

In our opinion the responsibility of commercial banking institutions in strengthening financial discipline in the country and their participation in the establishment of a financial order should be increased. In this case they must be granted definite rights and corresponding duties in the fight against criminal income legalization.

Actually, as a result of these discussions we concluded that banks are quite actively involved in different kinds of economic crime and money laundering. An incomplete juridical base together with subjective and objective factors also supports the realization of financial machinations. Also, dangerous forms of economic crime in the banking system have acquired an international character and scale. It is impossible to fight against them without international cooperation and without joining international agreements. We think it is necessary to base the fight against criminal income legalization and financial machinations on the forty recommendations of FATF. On the basis of these recommendations a law on the "fight against money laundering in Georgia" should be adopted. The main role in the

implementation of this process must be given to the banking institutions. A simple objective of the law should be determined, along with a sphere of its application, corresponding terminology, people monitoring the process of money laundering, their functions and responsibilities, conditions of bank customer identification, etc. At the same time security measures inside the banking system should be formed and more importantly, rights and responsibilities of legislative and bank monitoring bodies, etc⁶.

E. Machinations carried out at commercial banks

The process of improvement of legislation must include the banking law as well, since most of the machinations are prepared and realized inside the banks. At present, the main weapon for fighting money laundering is derived from the law of the “National Bank of Georgia” which is the working organic law at the Institute of Bank Monitoring (chapter VIII, item 59). By this law the National Bank is authorized to monitor commercial banks, give and eliminate their licenses, carry out any kind of inspection, take regulatory measures, apply sanctions and restrictions, carry out temporary management and liquidation processes.

It is quite lawful that mistakes and machinations made by commercial banks are revealed during the process of liquidation. That is why we will mainly discuss issues connected to this process.

According to item 37 of the Georgian law on “Activities of Commercial Banks” the bank is liquidated when the licence is annulled. The National Bank appoints a liquidator, who must make a list of active and passive assets of the bank in three months time and pass the copy to the National Bank for publishing. The same law also states the order of covering all financial obligations according to the following priority: National Bank of Georgia, payments to physical persons, other kinds of deposits, other requests to the commercial bank, target and

⁶ Draft law of Georgia of “fight against money washing” Banki, 1-2 (2002): 1-4

necessary expenses made by the National Bank. If it is impossible to meet every request, the sum left after satisfying the first order is equally distributed according to other requests. Besides, statutory capital of the bank shareholders (founders) is compensated last. That is why in a case when the actives are small or insufficient it is possible to leave the shareholders without a sum of money. Because of this, the founders of commercial banks always try to deposit their share of statutory capital on bank accounts through internal accountings that allow them to adopt the status of an account holder and become the creditors of the first priority. The realization of such machinations is much easier if a bank, during liquidation does not have the National Bank on its balance (which according to working legislation must be satisfied in the first order). In case of a request from the National Bank, dishonest shareholders try to artificially create such conditions, which will give them a chance to accomplish their intentions. For example, while making a liquidation balance N , the request of the National bank is artificially increased by increasing the amount of interest. In this case, $N-1$ sum of money, much bigger than the real sum requested by the National Bank is fixed in the balance, which naturally undergoes corrections in order to reduce it to the real amount of money, and the received difference $N-1 - N$ makes the limit which gives the possibility of moving shareholders in the category of accountholders. After the realization of such machinations socially unprotected category of accountholders, remain unsatisfied, along with the State Budget, while machinators receive significant sums of legalized money.

As it is known, in many cases liquidation of commercial banks is forestalled by the appointment of a temporary administrator (item 32-36 “Law of commercial bank activities”), the aim of which is to solve existing problems of the bank or to prepare the liquidation process in case of inevitable liquidation. The period of temporary administration is the best time to create conditions for machinations. A temporary administrator has a chance to realize bank activities, falsify balance data, create artificial responsibilities, etc. Thus, a criminal

alliance takes place; that of the machinators and the temporary administrator. They manage to redistribute bank activities to their interest avoiding the order stated by the law. In Georgian banking practice there are frequent cases, when a customer signing the debt contract pawns his property. In many cases market price of this property grossly exceeds the bank loan. Unfortunately there are cases when dishonest employees of the bank take advantage of the client's economic situation and ask for a bribe in the form of a percentage of the sum. The customer agrees to this for different reasons. This action is in fact the first step in the chain of crime that always follows such transactions, as the money paid for the bribe is an extra financial burden for the client and makes it problematic to return the credit. Dishonest relations between the banks and their customers are especially useful during temporary administration or bank liquidation, when machinators, in cooperation with the customers, manage to liberate pawned property from mortgage loans by the means of liquidation of documents or their falsification. In fact credit agreements signed according to the law takes a blank form. Because of this machination the owner of the property avoids the fulfillment of his duties. The machinators are given a chance to get a hold of the part of the property cost liberated from mortgage, which is also legalized.

The cases of pawning the same property in different banks and the cases when the creditor uses juridical circles as guarantees, where there is no property listed, also belong to the category of machinations conducted on the basis of credit agreements. This makes lawsuits impossible for the banks. Participation of banks in such transactions connected with property or income legalization makes the existence of certain unhealthy interests obvious.

The worst and the most harmful for the State and the banking system are the cases when machinators aim at State owned means. For example, commercial banks assisted by bureaucrats give credits with unjustified, high bank rates to the organizations on State donation. Such credits, as a rule, are used to cover salaries, pensions or other types of similar

debts. Taking in view permanent underfulfilment of the budget, State organizations cannot accomplish their duties to the banks for a long time. As a result of such transactions commercial banks get a hold of privatization units and State shares of the profitable enterprises, instead of the loans. These shares then move to the business partners of the banks and the Budget has to pay accumulated debts for years, as private structures begin to influence State institutions.

In the banking sphere it is very popular to inspire lawsuits artificially. For example, a temporary administrator is appointed at X bank by the National Bank. After his activities there, it was decided to annul the license of the bank and liquidate it. In order to slow the process, Bank management, in accordance with the shareholders, appeals the decision of the National Bank. This time is used for falsification of the documents, their rewriting and liquidation of double bookkeeping. The prolongation of the process gives the bank an opportunity to slow those loan cases which are in the interest of their friends. Taking in view juridical prescription (in Georgia it is 3 years for these kinds of cases) after three years the bank will “deprive” itself from juridical possibility of returning the credits back. We should keep in mind that most courts do not take action if the bank does not pay legal expenses in advance, which the liquidated banks are not able to do in most cases. Accordingly, the court will not hear the case, though it will still be pending. In fact, this creates a paradox, when the machinators can make an agreement on the creation of an artificial case that can be sued. Because of this, it becomes very easy to legalize different deals and accomplish illegal purposes, as the court will refuse to take action.

Rather interesting relations between the commercial banks and bailiff institutions are formed. In many cases banks have to get pawned property through the court, and it is the authority of executive institutions to enforce the sentence. Machinators make use of such situations through illegal redistribution of bank actives. For this purpose they step into a

criminal alliance with bailiffs. The bailiffs execute the withdrawal of the money or property and instead of returning the property to the bank they neglect the order and proportionality and pass the abovementioned property, as it was agreed beforehand, to the machinators, who in many cases are the shareholders or their relatives.

We have discussed cases of machinations, which are directly realized in the banks and are based on incomplete banking laws and normative bases to say nothing about the quality of monitoring by the National Bank. Bank monitoring is the main weapon, which the National Bank uses to ensure the operation of the banking system, its stability and correspondingly protection of accountholder rights. Protection of accountholder rights in Georgia has a special meaning. First of all, accountholders are deprived of the possibility to evaluate individual banks and the levels of risk connected with them. Secondly, losing the confidence of accountholders can cause a chain reaction of loosing confidence in banks generally⁷. Especially, since there have been several scandalous cases in Georgia, when certain circles managed to appropriate accountholders' money, and legalized and created political careers based on it. The main element that is used to evaluate the degree of confidence in a bank, its reliability and solvency is the capital of the bank. From the point of view of accounting, capital is the difference between the bank actives and obligations. Thus, positive capital is the main guarantee for protection of interests of accountholders. While reducing the value of actives, capital becomes a potential reserve for covering the loss. So, capital plays the role of a buffer between the actives and obligations. Namely capital gives the bank a chance to continue activities under conditions of significant loss and solve financial problems.

Unfortunately in the banking system of Georgia there are cases, when bank capital does not correspond to the one fixed by accounting indicators. In this case, the essence of the machinations realized in the bank is the fact that during the period of the inspection the

⁷ Tutberidze G. "For the issue of sufficient capital for commercial banks" Banki, 1(2000): 2\18-22

volume of capital, which is obligatory for normal functioning of a bank, and is allowed by legislation, is artificially fixed. Banks achieve this by different means, like attracting cash temporarily or slowing movement of budget means for a suitable time period. In the period after the inspection, temporarily attracted capital returns back to its initial position, and the bank remains with the capital which is not enough to ensure new bank production and its supply to the customers.

Machinators take advantage of the fact that bank capital in many cases does not coincide with its market price. In order to falsificate real value of the capital they artificially increase the market value of the actives. At the same time market value of the obligations is decreased, which creates an illusion of the well being of the bank. We do not think that monitoring bodies are not aware that such machinations are realized in the banks. Though it must be mentioned, that having enough capital does not give the bank guarantees from bankruptcy.

F. Conclusions and recommendations

In the end, analysis of Georgian banks and studies of the principles of their activities makes it clear that many factors of the banking system need serious attention. Among them, aside from the abovementioned factors, we must name the bank reserve structure and its management, evaluation of the liquidity, improvement of bank confidentiality and other issues.

First of all we would like to speak about the banking system and in particular about the place and role of commercial banks in the fight against economic crime. Of course solutions to the problems existing in the banking system will reduce the number and rate of financial machinations, but banks will always remain initiators of these machinations, if they themselves will not become leading subjects in the fight against criminal income legalization.

Georgian participation in international agreements concerning the fight against economic crimes brings forth the necessity of taking special juridical measures on the national level, expansion of the rights of juridical bodies and involvement of new subjects in the fight, in particular the banks. If the commercial banks are involved in the fight against money laundering they should be given special rights and competence to reveal and prevent economic crime. Commercial banks must take the following duties:

- **In case of an attempt of criminal income legalization, commercial banks must observe the following bank operations: deposit of money in a bank account, use of credits, service of cash-accounts etc.**
- **To implement complete identification of clients, with a list of people carrying out suspicious operations.**
- **To document and provide appropriate bodies with information about money laundering operations and data about the people participating in the process.**

In fact these measures are special methods of investigation envisaged by the Convention of Euro Council on “laundering, withdrawal and confiscation of criminal income”.

Furthermore, banks should have a duty to analyze information and activities in order to reveal possible crimes. At the same time, obtained information should be documented and delivered to executive organs, which can use it as a basis for criminal prosecution or as evidence. To ensure complexity of the abovementioned informative and analytic activity, a specialized database of economic and financial crime should be established and managed by the National Bank.

To ensure the realization of the above listed duties on the basis worked out by the National Bank, commercial banks must form a criteria and mechanisms which will enable them to reveal specific features of income legalization and money laundering. They must

implement corresponding security systems, which will reveal and fix cases of possible crime, carry out training for authorized people, strengthen control inside the bank.

Speaking about the criteria of crime and its classification, we must touch on the issue of improvement of rules of bank control from inside. The starting point for this should be the methods of crime revelation, and its investigation. These methods and rules of bank control from inside must contain a scientific system of recommendations, which will ensure optimal execution of these functions by the employees of the bank.

This system of recommendations must imply:

- *Formulation of characteristic features of crime types*
- *Description of typical situations of bank control from the inside.*
- *Explanation of typical tasks to the employees*

The source of anti criminal methods should be comprised of international norms, working legislation, operative and general investigation experience...

The people participating in the money laundering process can be divided into two groups: people who are not the employees of the banks, for example founders and employees of such fictitious organizations, which were specially founded to realize illegal operations of money laundering and those who work at commercial banks or cooperate with them and take part in illegal operations.

The process of money laundering can itself be divided into three stages:

- 1. Transfer of the dirty money into the legal sphere.*
- 2. Hiding the facts of money laundering and its routes.*
- 3. Returning the washed money (property) back to the owner.*

Specific activities characteristic of the first group of people taking part in the money laundering process include:

- a) Creation of false enterprises, in the name of which illegal financial operations are realized, in order to hide criminal income.*
- b) Creation of positive background for the false enterprise in order to obtain good reputation.*
- c) Preparation of false agreements in order to carry out banking operations.*
- d) Involvement of bank employees in the criminal activities in order to legalize criminal income.*

Specific features of the second group:

- a) Hiding facts of money legalization by leaving out corresponding operations from the procedure of the bank inspection from inside (this aim is achieved by hiding the operation wholly, or by hiding its significant elements).*
- b) Moving the people involved in the money laundering process in shade in order to falsify the identification.*
- c) Hiding the information from corresponding executive bodies*

16 ორდერ ტო რევეალ ტჰე ფაცტს ოფ მონეე ლაუნდერინგ ანდ ლეგალიზაციონ ოფ ილლეგალ ინცომე ტჰე ბანკს მუსტ პაე სპეციალ ატტენტიონ ტო ანე სპეციფიკ ფორ ტჰის ტეჰე ოფ ცრიმე ცირცუმსტანცე ანდ ინ ორდერ ტო ობტაინ პოსიტივე რესულტს ეხამინე ევერე სუსპიციოუს ცასე ოფ ბანკ ოპერაციონ წიტჰოუტ ეხცეპტიონ ანდ სტუდუ იდენტიფიკაციონ დატა ფორ ევერე ცლიენტ. ოლლოწინგ ტეპიკალ პოსიტიონს მუსტ ბე რეგარდედ ას სუსპიციოუს:

- *Transactions, which have vague or unusual characteristics, or transactions, which have no clear economic meaning or aim.*

- *Transactions, which are not in accordance with the activities fixed in the statute of the organization.*
- *Transactions, which are deliberately divided into fragments to avoid corresponding norms and control.*
- *Accounting operations, which are characterized by nonstandard or unjustified complex mechanisms.*
- *Clearing operations of cash received on an account the day before.*
- *Unjustified acceleration of the operation*
- *Offering unjustified high brokerage*
- *Making changes in the agreement right before the operation*
- *Keeping in the bank safes sealed packages of the physical persons having no information about their contents.*
- *Keeping in the bank safes share holdings, value of which does not correspond to the clients' property state.⁸*

We find it also important to formulate the features according to which the banks will be given a chance to question clients' activities and their obedience to the law. In this case we think that two main categories of suspicious circumstances must be discussed:

1. Circumstances, which give ground to doubt the authority of a physical person, his capability, his business reputation. As a rule existence of such features indicates unreliability of a client, fictitious character of his occupation. These circumstances are:
 - Presentation of falsified documents about founding a juridical person, presentation of low quality copies of documents.

⁸ «Legalization of criminal funds of monetary means» date of original publication 10.10/2000, date of indexation 25.03.2002; <http://newasp.omskreg.ru/bekruash/ch4p2.htm>

- Discord of the presented information about the management of the organization with the data fixed in the documentation.
 - Discord of registered statutory capital with the real sum and discord among the founders.
2. Circumstances, which concern financial activities of the company. A base for such circumstances is the everyday information that is accumulated in the bank during the banking process. Analyzing this information gives opportunity to obtain information about legalization of illegal income, sources of dirty money, mechanism of the crime, etc. For example, increase of debit liabilities on client's foreign currency balance can point to the process of exporting money or material values abroad. Increase of credit liabilities points to the process of money accumulation, which the machinators will use for further financial operations. A circumstance where a client's official turnover does not correspond with the balance of the current account and clearly points to the fact of legalization. The strong point of this category of circumstances is that if the client hides from the controlling bodies the amount in his bank account, his income and its use, facts of changing statutory capital, or types of his activities, which occupy a big place in his financial indicators, they are still demonstrated on the bank accounts as a result of a comparison of bank extracts and balance data. Also true signs of legalization are facts when operations in cash exceed in number clearing operations and when collection is not realized daily. It is also suspicious when the client returns the debt unexpectedly, or takes a debt (or tries to).

Illegal income legalization can also be realized by physical persons and their bank accounts. While revealing such facts banking institutions must pay special attention to the client's inappropriate and suspicious behavior. As a rule in this case, the client tries to mask or hide his participation in the processes of legalization. Clear indicators of this fact are:

- ***Falsification of identification data (name, place of birth, date of birth, address, job, etc) by the client.***
- ***Falsification or hiding the data about income and paid taxes.***
- ***Realization of banking operations through a third person with a suspicious warrant.***
- ***Claims from other banks about the client and the concealment of this information by the client.***

Processes of money laundering may not be different from any legal operations, but the probability that a certain transaction or a financial operation has a criminal character is estimated according to specific features characteristic to it. These features must be examined carefully to see their specific combinations clearly. Revelation of these combinations and their investigation is rather difficult and to solve the problem, an algorithm, which will enable us to sort out and process vast information, must be developed. For the development of the algorithm we can take a systematic approach and apply combined methods. Creation of this algorithm should imply gradual solution of the following problems:

- Appropriation of structural elements, which construct the situation that will be controlled further.
- Work out a complete list of typical situations, taking in view the conditions of their formation.

In special literature one can discover a notion that it is possible to describe an exact situation, in which a crime is committed in the banking system, by studying combinations of about 25 variations, which consist of about 70 independent structural elements.

Working out of a conventional algorithm will help in rationally distributing responsibilities among bank employees and concentrate their efforts. Every subdivision must be equipped with the same features of legalization, which they come across during their working process. Banks can also use following documents as sources of information:

- a) Contracts, accounts, cheques, obligations, etc*
- b) Documents describing client's capabilities (documentation about the founding, registration certificate, passport of a subject, certificates from taxation bodies, etc).*
- c) Identification documents of the client (identification card, warrants, orders, certificates, etc.).*

Besides the abovementioned additional sources of information are:

- a) Information presented directly to the bank employee by the client about the specifics of agreement and the people participating in it.*
- b) Information supplied by other banks about the client.*
- c) Materials obtained after the inspection of client's activities.*

In the end all the obtained information describes two main categories of activities:

- 1. Revelation of suspicious operations, their documentation and investigation.*
- 2. Revelation of participating people and examination of their activities.*

Collection of information concerning legalization of illegal income and its saving at the banking institution must be realized under a special regime and secrecy. Thus, it must become inaccessible for strangers and be classified as a banking secret. So, within the banking system a circle of people, who will be granted a right to work with this documentation, must be created.

Out of the problem, emerges a necessity of establishing a service of confidential activities, which means assigning responsibility for exposing existing confidential information (the employee which does not take the official obligation to keep confidential

information, is not called to account.) The problem is that, in Georgia according to the current legislation the issues of commercial confidentiality are not regulated, which can delay the process of establishment of this service. The only juridical norm, concerning confidentiality is item 202 of the criminal code about “collecting and spreading of confidential bank information”, which defines neither commercial nor banking confidentiality, and does not meet modern demands.

In the end we would like to pay special attention to the fact that fight against legalization of illegal income is more effective on the starting point of the financial machination or in the early stages of the crime. The transformation of financial means is not a very complicated process, but if the transformation is realized it is difficult to reveal. In any case, structures participating in prevention, revelation and investigation of money laundering processes must take in view that the fight against this crime envisages regulation by the authorities as this sphere is characterized by complicated mechanisms and long traditions. Unfortunately these traditions in Georgia are not strong, a juridical base does not exist, corresponding structures have no experience, and there is a high level of corruption in the country. Under these conditions we cannot exclude the possibility of cases when will become victims of imperfect technologies and mistakes. Thus, the fight against money laundering should acquire a purposeful and concrete character and should not be turned into a weapon for settling of political and personal scores. It should not take form of a temporary campaign.

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