

PROBLEMS OF REDUCING THE CRIMINALIZATION OF INVESTMENT ACTIVITIES OF JOINT-STOCK COMPANIES AND THEIR SOLUTIONS

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A B S T R A C T	K E Y W O R D S
The article analyzes the relationship between the development of the shadow economy and investment activities, studies the reasons of the criminalization of investment activities of joint-stock companies, companies and organizations. Control mechanisms which are proposed to reduce the shadow component of the economy and develop investment activities.	investment activity, economic growth, direct investment, financial investment, legal economy, criminalization, pressure of taxation, capital flight, phenomenon of criminalization , criminal economy, corruption.

INTRODUCTION

Investment activity in the current conditions is an integral part of economic development. The improvement of the investment sphere ensures the qualitative development of the economy. The tendency of investors to shadow their activities arises due to unfavorable conditions of the economic climate. Depending on the type of investment (real and financial), the forms of criminalization differ. Shadow operations in the investment sphere destabilize the economic and social situation in the country. In joint-stock companies engaged in investment activities, there are also cases of informal transactions. Investments can also perform the functions of turning part of the savings into a specific resource. That is, resources that are intended for a separate application. These accumulations are of no benefit to the interests of society. Since investors do not invest in the acquisition or replacement of capital, but direct them mainly to the shadow sector, to the market of speculative operations or to offshore zones, keeping them out of the economic turnover that is useful for society. As a result, illegal capital hidden from state control is formed, and investment activity moves into the "shadow". This phenomenon carries with it a danger not only in the economic sphere, but also in the social sphere, which can be represented in the form of a difference in the level of monetary incomes of various strata and groups of the population (economic differentiation), an increase in crime and social tension.

ANALYSIS AND RESULTS

In the modern world, one of the main factors of the country's development is the economy. The level of its development depends on the economic relations in society, the mechanisms of public

administration. In case of insufficient progress, favorable conditions for the prosperity of the shadow economy appear.

The shadow economy is a hidden economic activity, uncontrolled by society, the purpose of which is to extract excess profits to meet the personal and group needs of a small part of the country's population. The shadow economy is a fairly broad concept that is widespread in almost all spheres of the economy. The gradual "going into the shadows" of these industries is called criminalization. When combining investment activity and shadow operations, the concept of "Criminalization of investment activity" arises.

The concept of "Criminalization of investment activity" is widely presented in the article by E.N. Malchenkov. The author gives the following definition: "Criminalization of investment activity is the occurrence of shadow operations during the implementation of investments and their implementation by economic entities in order to minimize investment risks in an unfavorable economic climate."¹

Having studied the definition of this concept, we can identify the lack and lack of necessary conditions in the economy for legal investments as the main reason for the appearance of shadow operations in investment activities.

The deterioration of the economic climate in the country is influenced by various factors:

- economic (an increase in the tax "press", an active sterilization policy of the monetary authorities, the presence of a deficit in the domestic market that is not compensated by imports, high unemployment, monopolization of the market);
- social (low standard of living of the population, uneven distribution of GDP);
- political (corruption, the presence of lobbying movements that realize vested interests, bureaucracy);
- legal (imperfection of legislation, lack of a mechanism to combat crime).

The shadow activity of investors is considered to be more or less criminal if it contradicts the current legislation of the country. The factors that stimulate criminal actions are studied in the section of economic theory – the economics of crime and punishment. Let's consider the works of great economists in this field for an in-depth analysis of investor behavior in the process of shadow economy. Professor at the University of Chicago, founder of the economic theory of criminal and law enforcement activities, winner of the Nobel Prize in Economics (1992) Gary Stanley Becker formulates the basic principles of his theory in his scientific works and works. In the article "Crime and Punishment: An Economic Approach"², he developed an economic approach to crime analysis using economic imperialism. Becker describes the significance of the above approach as follows: "The essence of the economic approach to crime is amazingly simple. It consists in the fact that people decide whether to commit a crime or not by comparing [their expected] benefits and costs of the crime."³

In the case of an investor, the same situation occurs, he chooses between legal and shadow investment, comparing the consequences of each of them. The assessment of the benefits of the activity is quite simple. Basically, these are monetary benefits: the profit received from investments, the formation of specific resources, the increase in hidden capital, the absence of taxes. Also drawing a parallel with

¹ E.N. Malchenkov. Criminalization of investment activity in modern economic conditions: the main causes and forms. pp. 1-2

² Becker G.S. [Crime and punishment: an economic approach](#). — Journal of Political Economy vol.76. n.2, 1968. — C. 169—217

³ <http://corruption.rsuh.ru/magazine/1/n1-06.shtml>

Becker's work, we came to the conclusion that when studying the reasons for choosing investors in the illegal side, psychological aspects should also be noted. For example, the mental pleasure of illegality experienced by a criminal.

The nature of the investor's investments and conditions in a particular area of his activity is determined by the content and features of the main informal forms the investment process. The creation of hidden workshops, workshops with a small production cycle that do not require serious capital investments and can bring quick profits, act as a common form of shadow economy within the framework of real investment. Unemployment, a shortage of goods that are in great demand among the population and are not compensated by imports, an increase in the tax burden stimulate capital investments in the creation of illegal production facilities. At the same time, the functioning of auxiliary structures are not registered, but they can be legal: the production of spare parts and basic products, the performance of repairs, the provision of services. According to a pre-prepared scheme, sales and sales are carried out. The funds received from this activity in whole or in part remains at the disposal of the heads of enterprises. Investments in securities and financial instruments act as the main share of investment activity in the modern economy. An example is joint-stock investment funds - open joint-stock companies engaged on the basis of a special permit. In this activity, there is no increment of real material capital, but there may be a significant profit.

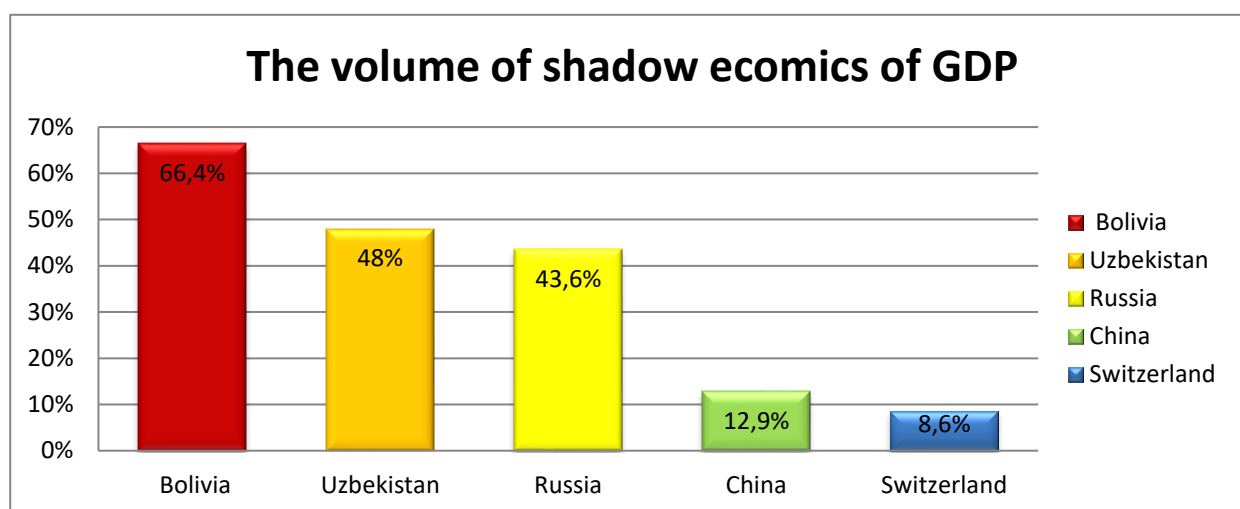


Figure 1 – The volume of the shadow economy of the countries of the world for 2020⁴

The volume of shadow capital in this area is more significant in size compared to the real sector and the damage inflicted on the state is much higher and more dangerous.

In recent years, the scale of the shadow economy has been steadily growing. The volume of the shadow economy of Uzbekistan for 2020 is estimated at 245 trillion soums or 48% of GDP, according to the data of the State Tax Committee, the global average level of the shadow economy is 17.2% of GDP, but this indicator differs in different countries. The graph below clearly demonstrates the levels of the shadow economy:

Nowadays, almost any line of activity is characterized by a high level of competition. In order to maintain their competitive positions and achieve leadership, joint-stock companies are forced to constantly expand their fields of activity and master new technologies. Joint-stock companies need

⁴ World Bank data www.worldbank.org

transparency and a stable reputation in the eyes of employees, partners and society to successfully conduct investment activities. Compliance can serve as a guarantee of the above criteria. Compliance is the principle of doing business by a financial institution in accordance with applicable laws, rules, codes and standards established by the competent authorities, professional associations and internal documents of this financial institution.⁵

Compliance control performs the following functions:

- identification and assessment of compliance risks associated with the activities of joint-stock companies;
- providing guidance to management on compliance with applicable laws, regulations and standards;
- development of written instructions to the staff of the joint-stock company regarding proper compliance with laws, rules and standards, including anti-money laundering laws;
- assessment of compliance of internal procedures and operations with the current legislation;
- Maintaining contacts with relevant external bodies, including regulatory authorities.

To date, much attention is paid to the development of the compliance control system in our country. In particular, on the basis of the Decree of the President of the Republic of Uzbekistan No. PP-4664 dated April 04, 2020, the compliance control system has been actively implemented in joint-stock companies of Uzbekistan. For example, Uzbekneftegaz Joint Stock Company is working together with representatives of the Accounts Chamber of the Republic of Uzbekistan, the Anti-Corruption Agency of the Republic of Uzbekistan, the United Nations Development Program in Uzbekistan and the international audit consulting company KPMG to improve the anti-corruption compliance control system. Also, together with KPMG, 13 internal regulatory documents were implemented to minimize and prevent corruption risks associated with the business processes of Uzbekneftegaz JSC, and 5 internal regulatory documents were submitted for approval by the General Meeting of Shareholders and the Supervisory Board.

The Uzkimyosanoat joint-stock company has also established a compliance control system and a Compliance Service, whose main task is to coordinate work on building a system to combat corruption, as well as providing support and advice to all employees of the Company in situations that are ambiguous from the point of view of corruption risk in the management and enterprise of the Company. During the short period of using this system, the following reforms were undertaken in Uzbekneftegaz JSC and Uzkimyosanoat JSC:

Table 1 – Reforms in joint-stock companies "Uzbekneftegaz" and "Uzkimyosanoat" on countering the shadow economy in the Company

Reforms in Uzbekneftegaz JSC	Reforms in Uzkimyosanoat JSC
- local regulatory documents have been developed in order to prevent corruption offenses;	- internal regulatory documents and procedures aimed at combating corruption have been adopted
- in order to ensure transparency in hiring, vacancies are being published on the Internet	- an anti-corruption action plan has been introduced

⁵ . M. V. Selezneva. Compliance control in the banking sector. A new approach to risk management. p. 1

and on the official pages of the company in social networks, real-time testing has been established;	
- the directions with a high level of corruption risks and risks of conflict of interests and the application of additional control measures to them are analyzed separately	- an anti-corruption policy has been adopted
- an automated system of accounting, control, monitoring was introduced as an experiment at LLC "Kuchlikskaya oil depot";	- a code of business ethics, conflict of interest management policy has been created
- a corporate information system is being implemented aimed at monitoring and managing organizational, financial and economic processes, reducing the human factor and preventing corruption risks, as well as improving production efficiency.	- progressive cooperation with the International Audit Consulting Company KPMG

Note: own development based on the data of joint-stock companies "Uzneftegaz" and "Uzkimesanoat"

In Uzkimyosanoat JSC, thanks to the reforms undertaken, the implementation of business plans of chemical industry enterprises for 2021, optimization of representative expenses, along with cost savings of 1.6 billion soum, corruption manifestations were prevented. ⁶

KPMG International audit consulting Company, which cooperates with joint-stock companies of Uzbekistan in the field of compliance control services, noted with satisfaction the new level of the fight against corruption in Uzbekistan⁷.

CONCLUSIONS AND SUGGESTIONS

Despite progress in countering the shadow economy, the level of reforms remains insufficient to fully improve the activities of all market participants in the country, including joint-stock companies. To improve the system for combating the shadow economy of investment activities of companies, organizations and joint-stock companies, the following strategic actions are proposed:

- timely and effective implementation in the joint-stock company system of the tasks defined in the "Roadmap" approved by the Administration of the President of the Republic of Uzbekistan aimed at countering the shadow economy and preventing corruption in the Republic of Uzbekistan for 2020-2021;
- improvement of social conditions and working conditions of employees;
- carrying out a number of works on the radical renewal of the procurement system in the Company, increasing the responsibility of participants in the process from the formation of applications to procurement and the application of appropriate control measures, as well as automation of this system;
- application of control measures aimed at preventing violations in the construction sector implemented in the Company and the development of appropriate regulatory documents;

⁶ <http://uzkimyosanoat.uz/ru/anticorruption/message>

⁷ <https://xs.uz/ru/50328>

- introduction of digital technologies, automation of the production process control system and improvement of the level of accuracy in the accounting of natural gas.

In Uzbekistan, the compliance control system is new, has not yet been perfected, and still some companies believe that compliance is a waste of time and money. We can also see the process of implementing this system only in companies, joint-stock companies and organizations marked in the resolution or the Roadmap. At the same time, foreign countries have long been creating entire compliance control departments, which usually contain the following units: groups to counter money laundering, to prevent conflicts of interest, to ensure information control, to analyze customer complaints.

In order to make compliance control the most effective, it is necessary:

1. Place the system at the highest possible level and pay attention to solving compliance control issues as seriously and in a timely manner as possible;
2. Compliance controllers themselves should be involved in the operational process, and should be checked by internal control units.
3. It is impossible to entrust the implementation of compliance control to persons who do not have sufficient experience in this field.

With the implementation of the proposed actions, the economy in Uzbekistan will increase, followed by an improvement in the investment climate. As a result of the creation and expansion of conditions in this environment, the shadow economy of investment activities of joint-stock companies will gradually decrease.

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