

The Crime of Money Laundering: an Analytical Study from the Perspective of International Conventions

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Abstract:

The crime of money laundering is one of the serious economic crimes that threaten the economies of the countries. It is an organized crime of an international nature, whose impact goes beyond the territory of one country due to its connection to the international economy, international trade, and the requirements of globalization.

In view of its effects that influence the economic development plans of countries and hinder their investment efforts, which then threatens the political, economic and security stability of countries; the international community has realized the need to work to reduce it, so we wonder about the international criminal policy established to combat this crime.

Keywords:

Money laundering crime, organized crime, money laundering, crime control, Financial Action Task Force (FATF), economic crime.

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جريمة تبييض الأموال: دراسة تحليلية على ضوء المواثيق الدولية

الملخص:

تعتبر جريمة تبييض الأموال من الجرائم الاقتصادية الخطيرة التي تهدد اقتصاديات الدول، وهي جريمة منظمة ذات طابع دولي يتعدى أثرها إقليم الدولة الواحدة لارتباطها بالاقتصاد الدولي والتجارة الدولية وما أفرزته مقتضيات العولمة.

ونظرا لآثارها التي تمس بالخطط التنموية الاقتصادية للدول وتعرقل جهود الاستثمار مما يهدد الاستقرار السياسي والاقتصادي والأمني للدول، أدرك المجتمع الدولي ضرورة العمل على الحد منها، لذلك نتساءل عن السياسة الجنائية الدولية الموضوعة لمكافحة هذه الجريمة.

الكلمات المفتاحية:

جريمة تبييض الأموال، الجريمة المنظمة، غسيل الأموال، مكافحة الجريمة، مجموعة العمل المالية الدولية GAFI، الجريمة الاقتصادية.

Le crime de blanchiment d'argent : étude analytique à la lumière des conventions internationales

Résumé :

Le crime de blanchiment d'argent est considéré comme l'une des infractions économiques les plus graves menaçant les économies nationales. Il s'agit d'une forme de criminalité organisée à caractère transnational, dont les effets dépassent les frontières des États en raison de ses liens étroits avec l'économie mondiale, le commerce international et les dynamiques de la mondialisation.

Eu égard à ses répercussions sur les politiques de développement économique, à son impact négatif sur l'investissement et à la menace qu'il fait peser sur la stabilité politique, économique et sécuritaire des États, la communauté internationale a progressivement pris conscience de la nécessité de renforcer les mécanismes de lutte contre ce phénomène. Cette prise de conscience s'est traduite par l'adoption d'un ensemble d'instruments juridiques internationaux et de mécanismes institutionnels destinés à prévenir, détecter et réprimer les opérations de blanchiment de capitaux.

Dès lors, la problématique centrale consiste à s'interroger sur la nature et l'efficacité de la politique pénale internationale mise en œuvre pour lutter contre le crime de blanchiment d'argent.

Mots clés :

Le crime de blanchiment d'argent, la criminalité organisée, le blanchiment d'argent, la lutte contre la criminalité, le Groupe d'action financière internationale (GAFI), la criminalité économique.

Introduction

Through economic globalization, the world has transformed into a small village and a vast marketplace, where borders and restrictions on the flow of goods and services between countries have been diminished to a great extent. Given that international financial markets constitute the fundamental pillar upon which globalization is built, the transfer of capital across national borders has become increasingly easy and unhindered. In this framework, organized crime has emerged in various forms, due to the evolution of financial transactions involving criminal organization-owned funds from the local to the international level. These organizations took advantage of free-market mechanisms to legitimize money gained through criminal activities-such as drug trafficking, arms dealing, human trafficking, and organ trade-by displaying it as lawful income. This practice is widely recognized as "money laundering."

With the global expansion of this crime in parallel with the dynamics of globalization, countries have come to recognize the urgent need to combat it, both locally through national institutions and internationally through the ratification of various international treaties and agreements, as well as through the efforts of proactive and relevant international organizations and bodies. Considering the foregoing, a fundamental question arises: **To what extent have the newly established legal mechanisms enshrined in international charters and conventions been effective in curbing the crime of money laundering?**

In order to address this question, the first part of this study is dedicated to the examination of the concept of money laundering as defined in various international conventions and treaties, while the second part will explore the provisions of these legal instruments concerning the fight against this crime and the mechanisms aimed at limiting its spread.

Chapter I: The Conceptual Framework of the Crime of Money Laundering

The crime of money laundering is considered one of the most serious economic crimes that threaten national economies. It is an organized crime with an international dimension, whose effects extend beyond the borders of a single

state due to several reasons, namely its close connection with the global economy and international trade, in addition to the demands of globalization. This felony is a derivative crime that aims to "clean" dirty money derived from a prior offense, in order to present it as legally acquired and sever its ties with the original crime¹. It is worth noting that the process of money laundering is not a recent phenomenon; its origins trace back to the 1920s in Chicago, United States, when Mafia figures -namely Al Capone- were engaged in the illicit trade of alcohol during the Prohibition era. That unlawful commerce generated vast financial gains, and in order to justify and legitimize these large and suspicious proceeds they conceived the idea of acquiring a chain of Laundromats. Cash derived from illegal trafficking became intermingled with the legitimate takings of ordinary household laundries, therefore "cleaning" those illicit funds and removing any apparent taint.² From this practice arose the concept of money laundering, which aims to confer a legal appearance upon proceeds whose origin is fraudulent and unlawful.

Given the severity of this crime, it is necessary to grasp its concept by addressing its definition (**Section One**) and outlining its characteristics according to international conventions (**Section Two**).

Section I: The International Definition of the Crime of Money Laundering

International efforts to define the crime of money laundering have been numerous; however, most of these conventions have not provided a strict or specific definition of this crime. Instead, they have merely listed the acts that constitute it. This is in contrast to some international organizations, such as the Financial Action Task Force (FATF), and the International Criminal Police Organization (INTERPOL), which have offered more concrete definitions. Accordingly, we will address the definition of the crime of money laundering according to the key international organizations involved in the field (**Subsection**

¹ Alberto Chong, Florencio López-de-Silanes, Money Laundering and its Regulation, Inter-American Development Bank, University of Amsterdam and NBER, January 2007, p. 8.

² ADAMA KAFANDO, la coopération judiciaire en matière de blanchiment dans l'espace UEMOA : état des lieux et perspectives, THÈSE PRÉSENTÉE POUR OBTENIR LE GRADE DE DOCTEUR DE L'UNIVERSITÉ DE BORDEAUX ÉCOLE DOCTORALE (E.D. 41) SPÉCIALITÉ : DROIT PRIVÉ ET SCIENCES CRIMINELLES, 2019, pp. 1,2

one), followed by its definition as provided in international conventions (Subsection two).

Subsection 1: Definition of the Crime of Money Laundering According to International Organizations

We will examine the definition of the crime of money laundering as provided by the Financial Action Task Force (FATF) (A), and then according to INTERPOL (B).

A. Definition of the Crime of Money Laundering According to the Financial Action Task Force (FATF)

This organization specializes in combating money laundering. In 1990, it published a report that includes forty (40) recommendations that member states are expected to adopt in order to prevent and combat money laundering³. It defined this crime as follows:

“Money laundering consists of reprocessing criminally derived proceeds in order to disguise their illegal origin. This process is critically important, as it allows criminals to enjoy these profits while protecting their sources.

The illegal sale of arms, smuggling, and organized crime activities particularly drug trafficking and prostitution networks can generate enormous amounts of money.

Fraud, insider trading, corruption, or cybercrime also produce significant profits, which motivates offenders to ‘legitimize’ these illicit gains through money laundering.”⁴.

Money laundering refers to the process through which individuals seek to conceal or transform the proceeds generated from criminal activities so that the funds appear to originate from legitimate sources. This mechanism is essential for

³ The Financial Action Task Force (FATF) was established in 1989 by the G7 to examine and develop measures to combat money laundering. It originally included the G7 countries, the European Commission and eight other countries. To learn more about the topic see the reference: Eka Kurniasari “money laundering: how it becomes an international threat (response against money laundering from the side of Indonesia)”, *Indonesian Journal of International Law*, volume 11, number 2, 2014, p. 192.

⁴ Financial Action Task Force (FATF). Report on Money Laundering Typologies 1990–1991, Paris, 1991.

offenders, as it enables them to utilize their unlawful profits without exposing the underlying illicit conduct.

Activities such as arms trafficking, smuggling, organized crime including narcotics trade and prostitution networks often yield substantial financial returns. Likewise, white-collar offenses such as fraud, insider trading, corruption, and cybercrime produce considerable revenue, thereby driving perpetrators to integrate these illicit gains into the formal economy through various laundering techniques⁵.

Accordingly, the organization defines the crime of money laundering as the reprocessing of financial proceeds derived from criminal activity by concealing their illegal source and giving them a legitimate appearance, thereby allowing the perpetrator to benefit from these profits⁶.

The organization regards that the predicate crimes from which these illicit proceeds originate may include illegal arms trafficking, smuggling, and activities related to organized crime particularly drug trafficking and prostitution networks, as well as bribery, fraud targeting information systems, and others. These crimes can generate substantial amounts of money, which urges criminal groups to legitimize them through money laundering and give them a lawful appearance⁷.

B. Definition of the Crime of Money Laundering According to the International Criminal Police Organization (INTERPOL)

The International Criminal Police Organization (INTERPOL) is an intergovernmental organization with 195 member countries. Its mission is to assist police forces in all of these countries to work together to make the world a safer place by sharing and accessing data related to crimes and criminals, in addition to providing technical and field support in various forms⁸. INTERPOL defines the crime of money laundering as: *"Any act or scheme aimed at concealing or disguising the proceeds obtained through unlawful means in order to make them*

⁵ Tiwari, Milind, Gepp, Adrian, & Kumar, Kuldeep, "A Review of Money Laundering Literature: The State of Research in Key Areas", Pacific Accounting Review, 32(2), 2020, p. 275.

⁶ Ibid.

⁷ Natasha Georgieva, "concept, definition and characteristics of the money laundering phenomenon", Journal of Process Management – New Technologies, International Vol. 8, No 2, 2020, p. 32.

⁸ International Criminal Police Organization, 'What is INTERPOL,' article available on the official website of the organization: www.interpol.int

appear as if they originate from a legitimate source."⁹. This is how the organization defines money laundering, emphasizing that it is a widespread phenomenon occurring in unexpected domains such as environmental crimes. The emergence of crypto currencies has further exacerbated this issue.

As for the methods used to transfer illicit funds, criminal networks move illegally obtained money through banks, shell companies, intermediaries, and money transmitters in an effort to integrate these funds into legitimate businesses and the formal economy. For this reason, the organization has developed methods to target the movement of illicit funds globally by emphasizing the various types of money laundering schemes, the use of virtual tools, and by identifying and confiscating the proceeds generated from criminal activities¹⁰.

Subsection Two: Definition of Money Laundering in International Conventions

Most international conventions do not explicitly define the crime of money laundering; rather, they enumerate the acts that constitute this offense. This is the approach adopted by the well-known Vienna Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (A), as well as by certain regional conventions (B).

A. The Definition Adopted by the Vienna Convention

The United Nations Conference that was held in Vienna in 1988 adopted The Vienna Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances¹¹. This treaty aimed to strengthen cooperation among its parties in order to more effectively and internationally combat the various aspects of illicit trafficking in narcotic drugs and psychotropic substances¹². This convention defines money laundering as the deliberate act of obscuring or altering the genuine

⁹ International Criminal Police Organization "*money laundering*", article available on the official website: www.interpol.int

¹⁰ The General Secretariat of Interpol, 'Interpol for Combating Financial Crimes and Corruption', available on the official website of the organization, previously cited.

¹¹ Algeria ratified it under: Décret présidentiel n° 95-41 du 28 janvier 1995, portant ratification, avec réserves, de la Convention des Nations Unies contre le trafic illicite de stupéfiants et de substances psychotropes, adoptée à Vienne le 20 décembre 1988, publié au Journal officiel n° 07 du 15 février 1995.

¹² For a more in-depth understanding of the topic, see the United Nations Conference for the Adoption of a Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, held in Vienna from 25 November to 20 December 1988, available on the website: www.un.org

attributes, origin, location, transfer, or ownership of assets, undertaken with knowledge that such assets originate from a criminal offense or participation therein, represents a core aspect of the money-laundering process¹³.

It is worth noting that this article limits the scope of the money laundering offense to proceeds resulting specifically from drug-related crimes as outlined in subparagraph (a) of Article 3 of the Convention. However, in reality, the proceeds of money laundering may originate from crimes other than drug trafficking. Therefore, it can be stated that the definition of money laundering adopted by the Vienna Convention is incomplete, as it does not comprise all the underlying activities and predicate offenses that give rise to this crime. In other words, the definition demonstrates a degree of insufficiency in precisely identifying the object or material scope of the offense.

B. The Definition Adopted by Regional Conventions

This includes the definition provided by the 1990 Strasbourg Convention, adopted by the Council of Europe, and the 2003 Arab Convention for the Suppression of Money Laundering and Terrorist Financing.

1. Definition under the 1990 Strasbourg Convention

It is a convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime; it was signed on November 8, 1990, by the member states of the Council of Europe. The convention emphasized that banking secrecy should not be invoked in cases involving suspicious bank accounts. Its main objective is to shed light on money laundering, facilitate investigations, and enable the seizure of illicit proceeds¹⁴. Unlike the Vienna Convention, the Strasbourg Convention broadens the definition of money laundering, extending it beyond drug-related proceeds to include any proceeds derived from serious crimes that generate profits requiring laundering to conceal their origin.

¹³ Article 3, paragraph 1(b) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, available on the website: www.unodc.org

¹⁴ Council of Europe, Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg, 8 November 1990), European Treaty Series, no. 141, Council of Europe, 1990, Article 6, available in the website: www.coe.int

While the Strasbourg Convention (1990) builds upon the provisions of the Vienna Convention, it significantly expands its scope¹⁵.

2. Definition under the 2003 Arab Convention for the Suppression of Money Laundering and Terrorist Financing

This convention was signed in Cairo on December 21, 2010, as part of the Arab League's efforts to combat transnational crime and enhance cooperation among Arab states to prevent money laundering and the financing of terrorism crimes that affect all countries and their economies making international cooperation essential to preventing and fighting them.¹⁶ According to Article 01, Paragraph 08 of this Convention, the crime of money laundering is defined as the perpetration or attempted execution of any act aimed at obscuring or misrepresenting the genuine origin of assets obtained in contravention of the domestic laws or regulations of a State Party. Thus, it gives them the appearance of legitimate provenance, constitutes a central element of money-laundering conduct¹⁷.

From this article, it is evident that the Arab Convention to Combat Money Laundering and the Financing of Terrorism (2010) expanded the concept of the crime of money laundering, defining it as any act or attempted act intended to conceal or disguise the origin of illicitly acquired funds and present them as lawfully obtained.

Section Two: Characteristics of the Crime of Money Laundering

The crime of money laundering is not a simple crime that can typically be committed individually. Instead, it requires a coordinated international criminal network, operating with a high degree of coordination and interdependence. The aim is to legitimize proceeds obtained through organized crime activities. The key characteristics of this crime are: it is organized in nature (Subsection 1); it has an

¹⁵ Peter HAGEL, La lutte anti- blanchiment d'argent menée par l'union européenne, bulletin d'information, questions pénales, centre de recherche sociologique sur le droit et les institutions pénales, septembre 2003, p. 03.

¹⁶ The Arab Convention for the Suppression of Money Laundering and Terrorist Financing, drafted in Cairo on December 21, 2010, available at: www.lastportal.org

¹⁷ Presidential Decree No. 14-250 dated September 8, 2014, approving the Arab Convention for the Suppression of Money Laundering and Terrorist Financing, published in the Official Journal, No. 55, on September 23, 2014.

international dimension (Subsection 2); and it is technically and economically complex (Subsection 3).

Subsection 1: Link between Money Laundering and Organized Crime

Money laundering is considered an organized crime due to the involvement of multiple perpetrators who collaborate in its commission. The final outcome of this crime is the result of the coordinated efforts of several individuals, each of whom voluntarily carries out a part of the physical elements constituting the offense. In other words, the crime involves multiple actors working together, all possessing criminal intent and jointly aiming to achieve a single unlawful result: the violation of a legally protected right as defined by the legislator¹⁸. The process of money laundering may necessitate the existence of highly organized structures and meticulously planned mechanisms, through which such operations are carried out in a coordinated manner involving interconnected transactions within informal transnational networks. This complexity renders it extremely difficult to distinguish these activities from legitimate financial operations¹⁹.

Money laundering is an intrinsic part of organized crime. Without the ability to launder the proceeds, criminal organizations would be unable to operate effectively, as displaying wealth gained from crime would expose them to law enforcement scrutiny²⁰.

Money laundering is not merely an economic crime, but a cornerstone of organized criminal activity, enabling criminal groups to infiltrate the legal economy and secure the proceeds of their enterprises²¹.

In short, money laundering goes beyond merely being a financial crime, but it is subsumed under a bigger organized crime activity that leads to the violation of rights recognized and upheld by the law.

¹⁸ Jassim Mohammed Hussein Al-Zubaidy, “organized crime and its relationship to money laundering”, *IAR Journal of Humanities and Social Science*, volume 4, issue 2, 2023, pp. 1-11.

¹⁹ Emilia A. Isolauri, Irfan Ameer, Money laundering as a transnational business phenomenon: a systematic review and future agenda, *critical perspectives on international business*, volume 19, issue 3, 2023, pp. 426- 468.

²⁰ E. U. Savona, *European Money Trails*. Strasbourg: Council of Europe Publishing, 1997, p.15.

²¹ B. Unger, *The Scale and Impacts of Money Laundering*. Cheltenham: Edward Elgar Publishing, 2007, p. 4.

Subsection 2: The International Nature of the Crime

The international character of the crime of money laundering is manifested in its nature as a criminal activity that transcends the territorial boundaries of a single state. Perpetrators of this type of crime exploit the multiplicity of financial systems and the divergences between jurisdictions to transfer illicit proceeds through international financial institutions, with the aim of obscuring the link between such proceeds and their unlawful sources. This, in turn, results in the expansion of jurisdictional reach to encompass multiple states, including the state where the predicate offence was committed, the state in which the offenders were apprehended, the state where the criminal proceeds are located, as well as the states in which freezing or confiscation measures have been undertaken. This cross-border dimension reveals the significant complexity involved in prosecuting money laundering offences, given the legal and procedural challenges it poses for law enforcement authorities, particularly with regard to tracing illicit funds and collecting evidence located beyond national borders, thereby necessitating the strengthening of international judicial and security cooperation mechanisms²².

Subsection 3: Economic Impact of Money Laundering

Money laundering has a direct and adverse impact on economic and monetary balances, as it leads to an abnormal increase in liquidity resulting from the integration of illicit funds into the economic cycle through the acquisition of assets with financial value. This, in turn, drives up the prices of such assets and fuels speculative activities, thereby creating instability and increasing risk levels in financial markets. These practices also contribute to fluctuations in exchange rates and interest rates due to sudden and unpredictable capital flows, which negatively affect foreign trade and the overall competitiveness of the economy, in addition to influencing monetary policy and price levels. Furthermore, money laundering diverts financial resources toward unproductive or high-risk investments rather than channeling them into productive and sustainable sectors,

²² To further explore the topic, consult the following references:

- Hanafi Amrani, *The Development of Anti-Money Laundering Regime: Challenging Issues to Sovereignty, Jurisdiction, Law Enforcement, and Their Implications on the Effectiveness in Countering Money Laundering*, Doctoral Dissertation in Law, Erasmus School of Law, Erasmus University Rotterdam, 2012, p 35.
- P. Alldridge, *Money Laundering Law: Forfeiture, Confiscation, Civil Recovery, Criminal Laundering and Taxation of the Proceeds of Crime*, Oxford: Hart Publishing, 2003, p. 53.
- J. Madinger, *Money Laundering: A Guide for Criminal Investigators*, 2nd ed., Boca Raton: CRC Press, 2011, p. 41.

thereby constraining economic growth rates and undermining the long-term development process²³.

Subsection 4: Technological and Technical Dependence of the Crime

The significant advancement in modern communication technologies, along with the development of technological means used for transferring and moving funds across borders, has led to an increase in the rate of money laundering crimes. With the evolution of electronic financial transfer systems, the rise of e-commerce, and the growing use of the internet in money laundering operations, the movement of capital has become easier. Consequently, the execution of such crimes can now be carried out more quickly and efficiently than ever before; especially with the emergence of digital currencies and electronic transfers, criminals have been offered advanced technical means to launder funds, thereby making detection by authorities considerably more difficult²⁴.

Chapter Two: International Instruments to Combat Money Laundering

The international community has recognized the grave consequences of money laundering on economic development and investment, as well as its threat to political, economic, and security stability. Accordingly, a global criminal policy has emerged, especially through United Nations conventions (Section 1), and recommendations of international organizations (Section 2).

²³ Cherroun Reguia, “the economic effects of money laundering”, *revue cahiers économiques*, vol. 3, no 1, 2012, p. 265.

²⁴ Georgieva, Natasha, op. cit., pp. 12-16.

Section 1: Role of UN Conventions in Combating Money Laundering

The United Nations has concluded several international conventions aimed at combating money laundering and strengthening international cooperation in this field. These conventions include the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, commonly referred to as the 1988 Vienna Convention (Section One); the United Nations Convention against Transnational Organized Crime, known as the 2000 Palermo Convention (Section Two); and the United Nations Convention against Corruption (Section Three).

Subsection One: The 1988 Vienna Convention

This convention required member states to criminalize specific acts when committed intentionally. It stated that each State Party is required to take the necessary legislative and regulatory measures to criminalize, under its domestic legal framework, the intentional conversion or transfer of assets, knowing that this latter originates from an offence or offences defined in accordance with the provisions of subparagraph (a) of this article²⁵.

The Convention urged State Parties to impose severe penalties that are proportionate to the seriousness and gravity of such offences. Article 3 states that each State Party must guarantee that the offences referred to in paragraph 1 of that article are subject to penalties proportionate to their serious nature, which may include imprisonment or other forms of deprivation of liberty, monetary fines, and the confiscation of assets²⁶.

With regard to jurisdiction, the Convention affirms the application of the principle of territoriality for the prosecution of money laundering activities. Jurisdiction is established whether the offense is committed within the territory of the State, aboard a vessel flying its flag, or on an aircraft registered under its laws at the time of the offense²⁷. The Convention also permits jurisdiction to be established by the State to which the offender is a national, or by the State in

²⁵ Article 3, paragraph (a) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, previously cited.

²⁶ Article 3, paragraph (a4) of the same source.

²⁷ Article 3, paragraph (a1) of the same source.

whose territory the offender has their habitual residence²⁸. In terms of judicial cooperation, the Convention emphasizes the obligation of States Parties to ensure the extradition of offenders and the provision of mutual legal assistance, all within the framework of enhancing international cooperation among States Parties.

Upon examining the provisions of the aforementioned articles of the Vienna Convention, it becomes evident that this international instrument laid the foundational legal framework for the global fight against money laundering. The Convention requires State Parties to criminalize- under their domestic legislation- the intentional conversion or transfer of assets known to be derived from criminal offences, thereby ensuring that such conduct is universally recognized as a punishable act. Through this requirement, the Convention succeeded in promoting the harmonization of national legal systems and establishing a unified international understanding of money laundering as a serious transnational crime.

Moreover, the Convention emphasizes the necessity of imposing sanctions proportionate to the gravity of the offence, including imprisonment, fines, and the confiscation of illicit assets. This reflects the international community's acknowledgment of the severe economic and social repercussions of money laundering, which undermines financial integrity and facilitates organized criminal activity.

With regard to jurisdiction, the Convention affirmed the adoption of the principle of territoriality as the basis for establishing jurisdiction over the prosecution of money laundering activities, whether the offence was committed within the territory of the State, aboard a vessel flying its flag, or on an aircraft registered under its laws at the time the offence was committed²⁹. The Convention further allowed jurisdiction to be established for the State to which the offender is attributed by nationality, or for the State within whose territory the offender has his or her habitual residence³⁰. With regard to judicial cooperation, the Convention provided for the obligation of States to engage in extradition and mutual legal assistance, within the framework of strengthening international cooperation among States Parties.

²⁸ Article 3, paragraph (a1) of the same source.

²⁹ Article 3, paragraph (A1) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, previously cited.

³⁰ Article 3, paragraph (A4) of the same source.

Subsection Two: The 2000 Palermo Convention

The Palermo Convention was adopted by the United Nations General Assembly in December 2000 and entered into force on 29 December 2003³¹. This convention is regarded as one of the key international instruments in combating the crime of money laundering, given that the accumulation of illicit proceeds constitutes a primary objective of organized criminal groups³². The Convention comprises 41 articles in which money laundering is criminalized. It also calls upon States to regulate their financial institutions and to abolish banking secrecy laws. Moreover, it sets out a range of preventive and punitive measures to address this crime. Article 10 specifically provides for the possibility of holding legal persons accountable, in accordance with the legal principles adopted by each State Party, in addition to the criminal liability of natural persons for the offenses they commit³³. Accordingly, this Convention contributed to shifting the crime of money laundering from the sphere of States' domestic concern to a central position within the framework of international law. It did so by requiring States Parties to criminalize the laundering of criminal proceeds derived not only from illicit drug trafficking offences, but also from various serious crimes associated with organized crime, particularly money laundering³⁴.

Subsection Three: The 2003 UN Convention Against Corruption (Vienna Convention)

The 2003 UN convention Against Corruption³⁵ was signed by the United Nations General Assembly in New York on 21 October 2003 with the aim of promoting judicial cooperation among State Parties to combat the phenomenon of

³¹ The United Nations Convention against Transnational Organized Crime, adopted by the United Nations General Assembly on 15 November 2000, is available on the official website of the United Nations: www.un.org

³² Algeria ratified the United Nations Convention against Transnational Organized Crime, adopted by the United Nations General Assembly on 15 November 2000, pursuant to: Décret présidentiel n° 02-55 du 5 février 2002, portant ratification avec réserves, publié au Journal officiel n° 09 du 10 février 2002.

³³ See Article 10 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, previously cited.

³⁴ D. Vlassis, «*The United Nations Convention against Transnational Organized Crime and its Protocols* », in *The Fight against Money Laundering*, G. Savona, Ed. Milan: Giuffrè Editore, 2005, p.112.

³⁵ Algeria ratified the United Nations Convention against Corruption, adopted by the United Nations General Assembly in New York on 31 October 2003, with reservations, pursuant to: Décret présidentiel n° 04-128 du 19 avril 2004, publié au Journal officiel de la République algérienne démocratique et populaire n° 26 du 25 avril 2004.

corruption. The convention enumerated the acts that constitute money laundering activities and obligated State Parties to criminalize them in accordance with their domestic legislation. It also required States to provide the Secretary-General of the United Nations with a copy of such legislation and any subsequent amendments thereto³⁶. The convention placed particular emphasis on the importance of international cooperation in the confiscation of proceeds of corruption-related crimes and the recovery of assets, considering it a fundamental principle of the convention.

Section 2: Recommendations of International Organizations

Combating the crime of money laundering requires strict monitoring of the various criminal organizations involved in this field. For this reason, numerous international and regional organizations and bodies have made significant efforts and issued numerous recommendations to be followed in order to put an end to this crime whose effects extend beyond national borders. Accordingly, we will address the recommendations of the Financial Action Task Force (FATF) in Subsection one, and those of the International Monetary Fund (IMF) in Subsection Two.

Subsection One: The Financial Action Task Force Recommendations (FATF / GAFI)

The Financial Action Task Force is considered a preventive body that seeks to establish an international strategy to combat the crime of money laundering. Its objective is to encourage countries around the world to adopt strict measures and enhance coordination among themselves and with other international organizations in order to achieve effective monitoring of offenders involved in this crime. The FATF recommendations have become the primary international standard in the fight against money laundering. Although not a treaty instrument, they exert considerable normative pressure on states, influencing legislative and regulatory reforms worldwide³⁷.

³⁶ Article 23 of the United Nations Convention against Corruption, adopted by the United Nations General Assembly in New York on 31 October 2003, is available on the official website of the United Nations: www.un.org

³⁷ W. C. Gilmore, *Dirty Money : The Evolution of International Measures to Counter Money Laundering and the Financing of Terrorism*, 3rd ed., Strasbourg: Council of Europe Publishing, 2004, P. 51.

In April 1990, the Group issued forty recommendations, which constitute a comprehensive international framework for combating money laundering. The implementation of these recommendations is monitored through regular meetings, expert groups, and communication with other countries, with the goal of developing forward-looking policies that align with the evolving nature of transnational organized crime³⁸.

Nonetheless, the main criticism directed at the organization's strategy in combating money laundering lies in the fact that, despite the effectiveness of its recommendations which have established mechanisms aimed at curbing this crime, it faces several legal objections. Most notably, the absence of a binding legal foundation for its work, as it is considered a political body rather than an international organization created by treaty, which makes its recommendations closer to "soft law" rather than binding legal rules³⁹. It is also criticized for undermining the principle of national sovereignty by imposing uniform legislative models on states under the threat of sanctions; without taking into account the particularities of different legal systems. Moreover, the FATF faces criticism for its lack of transparency and legal safeguards in the process of classifying countries on the grey or black lists⁴⁰. There are no available mechanisms for appeal or independent review, which runs counter to the principles of procedural justice and the right to defense. This situation is considered inconsistent with several principles of international law, including the principle of sovereign equality and the prohibition of economic coercion, making the FATF's actions despite their practical effectiveness lacking full international legal legitimacy.

Subsection Two: The International Monetary Fund (IMF)

The International Monetary Fund (IMF) is considered a key factor in supporting international efforts to combat money laundering and terrorism. It does so by establishing technical and institutional mechanisms aimed at enhancing transparency and financial stability. Its role in combating money laundering and the financing of terrorism is based on a comprehensive approach founded on

³⁸ The FATF Recommendations, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation, p. 7. Available at the website: : www.fatf-gafi.org

³⁹ Mark T. Nance, "The Regime That FATF Built: Tackling Illicit Financial Flows through Standards and Evaluation," *Crime, Law and Social Change*, vol. 69, no. 2, 2018, pp. 112, 118, 124.

⁴⁰ Farid Abilov, Review of the Money Laundry: Regulating Criminal Finance in the Global Economy by Jason C. Sharman, University of Kassel, Global Partnership Network, 2013, pp. 2-4.

assessment, technical assistance, and international cooperation⁴¹. The Fund integrates the fight against these crimes into its global financial stability policies by monitoring the banking and economic systems of member states.

The 2023 report highlights that the Fund bases its work on the recommendations of the Financial Action Task Force (FATF), which serves as the international reference framework for combating money laundering. In this context, the Fund participates in Mutual Evaluations and provides support to countries that need to improve their legal and supervisory systems.

Moreover, the Fund offers training programs and technical assistance aimed at enhancing the capacity of financial and supervisory authorities to detect and analyze suspicious financial flows. It also promotes international cooperation and the exchange of information among states and financial institutions to reduce the exploitation of cross-border loopholes.

Thus, the International Monetary Fund adopts an integrated institutional vision that makes the fight against money laundering an essential component of comprehensive prevention against global financial and economic risks⁴².

The measures adopted by the Executive Board of the Fund in the field of combating money laundering can be summarized as follows:

- Approval of a dual-track approach for collaboration with the Financial Action Task Force (FATF);
- Incorporation of the FATF's Forty Recommendations on combating money laundering into its operational framework;
- Implementation of a 12-month pilot program to assess money laundering and terrorist financing risks, with the participation of the World Bank, FATF, and other relevant financial bodies;
- Assignment of responsibilities to two departments within the IMF to implement the Fund's policy:
 - One within the Monetary and Capital Markets Department, tasked with addressing the financial and banking supervision aspects of the issue;

⁴¹ International Monetary Fund, Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)-Technical Note: United States, IMF Country Report No 15/174, July 2015.

⁴² International Monetary Fund. IMF and the Fight Against Money Laundering and the Financing of Terrorism, Washington, D.C.: IMF, 2023.

- The other within the Legal Department, comprising ten legal advisors from various countries, all specialized in anti-money laundering legislation and enforcement⁴³.

Conclusion

This study reveals that money laundering is a serious derivative crime aimed at "cleaning" illicit funds generated from a preceding criminal activity, with the objective of giving them a legitimate appearance and severing their connection to the original crime. Due to its harmful impact on economic development plans and its obstruction of investment efforts—threatening the political, economic, and security stability of states—the international community has recognized the necessity of formulating a global criminal policy to combat this crime. This policy is reflected in United Nations conventions, regional agreements, and the recommendations of relevant international bodies and organizations.

Nonetheless, despite the extensive international efforts undertaken, the global community has not yet succeeded in eradicating this crime. This failure is largely due to weak international cooperation, inadequate monitoring mechanisms, and the issue of banking secrecy invoked by banks and financial institutions, which hinders effective anti-money laundering efforts.

The study has concluded with the following set of findings:

- Money laundering is considered a serious ancillary crime aimed at legitimizing criminal proceeds and severing the link between such proceeds and the underlying predicate offence ;
- Money laundering adversely affects economic development and investment, thereby threatening the economic, political, and security stability of States;
- The international community has recognized the seriousness of this crime and has accordingly adopted an international criminal policy to combat it through international and regional conventions, as well as the recommendations of specialized organizations;
- International efforts remain insufficient to curb the crime of money laundering due to weak international cooperation, inadequate supervisory mechanisms, and the persistence of banking secrecy.

⁴³ The same reference.

In light of the findings of the study, the following set of recommendations may be proposed:

- Enhancing international judicial and security cooperation by activating extradition mechanisms, expanding the scope of mutual legal assistance, and intensifying information exchange among States in cases of money laundering;
- Strengthening the role of specialized international organizations and bodies, particularly the United Nations and the Financial Action Task Force, in monitoring the implementation of international obligations and assessing States' compliance with the adopted standards;
- Developing relevant international conventions by expanding the scope of predicate offences for money laundering and addressing the loopholes exploited by transnational criminal networks;
- Enhancing international cooperation in the banking and financial sector through the establishment of joint international mechanisms to trace suspicious financial flows and to curb the misuse of banking secrecy;
- Considering the establishment of a specialized international body tasked with coordinating global efforts in combating money laundering and overseeing the implementation of relevant international criminal policies.

To address these shortcomings, the following measures are essential:

- Strengthening international cooperation in the fight against money laundering and developing additional mechanisms to limit its spread;
- Enhancing collaboration with banking institutions by monitoring financial companies, verifying the legitimacy of their fund sources, and tracing the movement of funds;
- Providing ongoing training and capacity-building for banking personnel on the risks and methods of money laundering, in order to better control the crime;
- Working towards the establishment of an international body specifically tasked with combating money laundering.