

The Role of the Bank-Practised Duty of Vigilance and Caution in Limiting the Spread of Money Laundering Offences

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Abstract:

Banks represent the primary interface for development, the economy, and investment worldwide, as all financial transactions pass through them. This demands a more transparent and straightforward management model toward national and foreign economic operators to ensure the continuity of the economic cycle. However, many operations lack financial transparency and legitimacy, and some banks have become conduits for suspicious financial flows and financial crime. Accordingly, banks must adopt precautionary and due diligence measures to prevent money laundering through banking channels.

This article examines the duty of vigilance and due diligence imposed on banks in two parts: first, the nature and implications of this obligation in banking practice; and second, the legal and regulatory framework governing such rules and their effectiveness in curbing money laundering.

Keywords : Due Diligence, Bank, Financial Institutions, Money Laundering, Forgery

الملخص:

تعد البنوك والمؤسسات المالية عماد السيادة النقدية والمالية في الدولة، باعتبارها أساساً للتنمية الاقتصادية والرفاه الاجتماعي ودفع عجلة الاستثمار الوطني والأجنبي الخالق للثروة، إذ تشكل المعاملات المالية جوهر تطور الاقتصاد والتجارة في مختلف الدول. ويقتضي ذلك إرساء إطار قانوني وتنظيمي يحمي البنوك من العمليات المالية غير الشرعية، وهو ما تسعى إليه كل الدول، ومنها الجزائر. غير أن ثغرات في هذا النظام قد تُستغل من قبل أشخاص داخل البنوك أو خارجها، باستخدام المزايا والصلاحيات القانونية المخولة لمسيريها أو لزيائنها، بغرض الإضرار بسمعتها وارتكاب جرائم مالية كالفساد وإساءة التسيير واستغلال النفوذ. وأخطر هذه الجرائم هي جريمة تبييض الأموال التي تمس النظام العام النقدي وسمعة البنك داخلياً وخارجياً، الأمر الذي حدا بالبنوك إلى اعتماد احتياطات جوهرية تتسم بالحيطة والحذر في أنظمتها الداخلية، وفقاً للترسانة القانونية المؤطرة للنشاط المصرفي.

بناءً عليه، سيتناول هذا المقال في مبحثه الأول مفهوم مبدأ الحيطة والحذر من جميع الجوانب الواجبة الذكر، وفي مبحثه الثاني الإطار القانوني المنظم له ومدى فعاليته. ويتخذ البحث منهجاً تحليلياً استنباطياً، انطلاقاً من دور الحيطة والحذر في استباق جريمة تبييض الأموال عبر البنوك.

الكلمات المفتاحية: قاعدة الحيطة والحذر، البنك، المؤسسات المالية، تبييض الأموال، التزوير.

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Introduction:

Banks and financial institutions constitute the cornerstone of monetary and financial sovereignty, as they form the basis for economic development and social welfare and drive both domestic and foreign investment that generates wealth. Financial transactions lie at the heart of economic and commercial growth in all states, which necessitates the existence of a legal and regulatory framework to govern banking activities and protect banks from illicit financial operations-a goal that all countries, including Algeria, pursue.

However, despite this framework, certain loopholes in the banking legal system may be exploited by individuals inside or outside banks in order to harm the reputation of banking institutions, by using the legal advantages and powers granted to their managers or to clients interacting with them, so as to commit a variety of financial offences such as mismanagement, bribery, and abuse of authority.

Moreover, the most serious crime that banks may face is money laundering, which directly threatens monetary public order and the bank's own reputation, internally and externally. This has led banks to adopt core precautionary measures characterized by vigilance and prudence within their internal systems to avoid money-laundering risks, as an expression of respect for and application of the legal framework governing the banking sector.

Starting from this context, the present article will, in its first section, examine the concept of the principle of vigilance and caution from all relevant aspects, while in the second section it will address the legal framework governing these principles and assess its effectiveness.

The research adopts an analytical-deductive method, considering the preventive role of vigilance and caution in anticipating crime, and in particular the crime of money laundering. The central problem may thus be formulated as follows: To what extent is the legal framework regulating the principles of vigilance and caution effective in preventing money-laundering offences through banks?

1. Section One: The Concept of the Principle of Vigilance and Caution in Banking Transactions

Banking transactions in the commercial and economic sphere are diverse and numerous, and for the most part governed by the principles of trust and credit, since they are commercial operations in their very nature. This equally applies to banks, which are regarded as commercial companies under the Commercial Code and classified as joint-stock companies, in addition to their subjection to the Monetary and Credit Code, which serves as their primary legal reference (Ordinance.No.75-59, 1975). For this reason, the principles of vigilance and caution are considered essential in banking transactions.

Starting from this premise, this section will be devoted to two main points: in the first, the concept of the principle of vigilance and caution will be defined, and in the second, the applications of this principle will be clarified.

First Subsection: The Meaning of the Rule of Vigilance and Caution

The rule of vigilance and caution denotes, linguistically, discernment, carefulness, and continuous alertness, as well as permanent preparedness for a situation that may or may not occur in the present or the future, concretely or in anticipation. Thus, the linguistic meaning of

vigilance refers to a heightened state of prudence toward an event that may occur in the near or distant future, in time or in space (Al-Fayrūzābādī, 1978, p. 400).

From a legal perspective, the rule of vigilance and caution designates the precautionary procedural rules that banks impose on themselves and on their internal systems in order to exercise oversight over the various acts of their clients and employees, with the aim of avoiding the risks to which these institutions are exposed due to the privileges granted to third parties, especially malevolent persons. Such risks may, at times, lead to financial crimes that directly affect the bank. Consequently, these precautionary measures form part of the legal protection afforded to banks through self-supervision, although the Algerian legislator, through the various laws governing banks-even in the period preceding economic reforms-has emphasized the necessity of banks adopting precautionary measures in light of the nature of banking activity, and under the supervision of the Central Bank (Haddid, p. 118).

The role and importance of the banking system have also been confirmed through the reform of the banking sector, particularly after Algeria implemented economic reforms enshrined in the 1989 Constitution regarding the freedom of trade, industry, and investment, which led to the emergence of national private and foreign banks (89-18, 1989). This has further increased the significance of the principles of vigilance and caution and the need for effective supervision of banking activities, even as the state has withdrawn from the economic sphere and limited itself to the roles of monitoring, guidance, and control. (90-10, 1990)

The principle of vigilance and caution in the banking sector was further strengthened by the Monetary and Credit Code No. 90-10, which established supervisory mechanisms for commercial banks by imposing the principle of vigilance and caution on them under the oversight of the Monetary and Credit Council and the Banking Commission. This necessity was reaffirmed by the regulatory and legal provisions included in the new Monetary and Credit Code No. 03-11, which intensified supervision over banks' activities and their transactions with clients and third parties (03-11, 2003).

The concept of the principle of vigilance and caution has been clearly confirmed by the rules issued by the Bank of Algeria in the form of regulations. Regulation No. 09-91 was the first text to establish this principle, setting out the prudential rules that banks and financial institutions must observe in order to avoid banking risks arising from transactions with third parties, as well as the need to activate their internal control systems (09-91, 1991).

The application of the rule of vigilance and caution by banks has become a relatively new concept in light of technological and digital developments. As a result, its definition has evolved with the changes in the methods used by bank clients, prompting banks to reinforce the aforementioned rules, while the law nonetheless prohibits banks from intervening directly or indirectly in directing the transactions of clients or the public, since their operations are presumed to respect the principles of legality and compliance with the law. (03-11, 2003)

According to the principle of respect for banking confidentiality, this principle is limited by the requests of the competent authorities, through the official reports prepared by banks and transmitted to the relevant authorities, with the purpose of monitoring suspicious financial transactions, particularly those related to money laundering, in accordance with the applicable legal framework (Toumi, 2007-2008, p. 13).

Regarding the principle of vigilance and caution, and building upon what has already been mentioned above, it does not appear to have a comprehensive, exhaustive, and exclusive definition. This is due to the diversity of procedures and situations in which the principle is applied for the purpose of correction or regulation. In this context, the monetary authorities, through their supervisory bodies represented by the Banking Commission, have worked to establish the general framework for banking oversight in general, under the threat of administrative or disciplinary sanctions, or even the adoption of judicial measures by the Central Bank in the event of violations of the strict rules of supervision (23-09, 2023).

Accordingly, the definition of the principle of vigilance and caution presupposes that banks must identify their customers and third parties, whatever their status may be, whether real or hypothetical actors in banking relations. For this reason, banks are obliged to implement the principle of “Know Your Customer” (KYC) before, during, and after any banking operation, particularly when opening bank accounts, whether at the head office of the bank itself or at one of its branches at the national level. (This principle constitutes one of the core rules of the Financial Action Task Force (FATF/GAFI).)

From this, it can be inferred that the previous legal provisions do not offer a clear legal definition of the principle of vigilance and caution. Rather, the Algerian legislator has limited itself to establishing a general framework, leaving the field open for legal doctrine to define the principle according to different perspectives. It can thus be regarded as a set of written and unwritten rules that banks are required to apply in all their banking transactions with third parties, in order to avoid financial and banking risks, as well as to prevent the commission of financial crimes, and in particular the crime of money laundering.

Second Subsection: The Importance of the Principle of Vigilance and Caution

The application of the principle of vigilance and caution by banks is considered one of the most important principles for ensuring transparency in financial transactions between banks and their customers, as well as between banks and other financial institutions. The reputation of banks lies precisely in the transparency of their financial operations and in their adherence to the applicable legal and regulatory framework. Therefore, the principle of vigilance and caution protects banks from current and future financial risks, while also improving the quality and efficiency of the banking services provided to the public, thus contributing to financial security and stability.

Avoiding Financial Risks

The principle of vigilance and caution is fundamental to the legitimacy of banking activity and is a duty incumbent upon banks to prevent various financial risks, particularly in relation to bank loans granted to third parties or to deposit operations carried out with banks in their various forms. To reinforce this objective, the Algerian legislator established a bank loan guarantee body, whose main purpose is to reimburse overdue or non-repaid loans, especially in cases of bankruptcy or judicial liquidation.

The activation of the principle of vigilance and caution aims to prevent financial risks directly linked to the avoidance of money-laundering offences (Aït Ouazou, 2012, p. 245), including the risk that funds deposited with the bank-which are then reinvested by the bank in the form of real-estate loans-may in fact be proceeds of laundering punishable under the provisions of the Penal Code (66-158, 1966). This is further reinforced by the explicit provisions contained in the Law on the Prevention and Suppression of Money Laundering and the Financing of Terrorism. (05-01, 2005)

Determining the degree of financial risk would be of little value if banks and their branches did not apply strict rules of vigilance and caution in all their transactions, whether at the national, regional, or international level. Suspicious financial operations carried out by banks or their branches may lead to the imposition of sanctions by the judicial authorities, following referral to the competent bodies by the Financial Information Processing Unit (FIU) (Toumi, 2007-2008, p. 13).

The activation of vigilance and caution thus protects banks from potential financial risks by adopting precautionary measures aimed at preventing suspicious financial transactions, whether carried out by domestic or foreign actors, natural or legal persons. This allows banks to obtain reliable information enabling them to take action against such suspicious operations conducted under the guise of legality, thereby securing judicial protection for the bank and avoiding criminal prosecution, particularly in cases involving loans derived from money-laundering offences, drug trafficking, arms trafficking, or human trafficking (66-158, on the Penal Code, previously cited, 1966).

The implementation of the principle of vigilance and caution is of paramount importance in avoiding financial risks associated with fraud, deception, and embezzlement aimed at obtaining bank funds, which may cause direct harm to banks, especially commercial banks whose primary objective is profit. The loss of liquidity constitutes a serious threat to banks, undermining their continuity and sustainability, and may place a bank in a situation of inability to meet its obligations toward third parties (Gouani, 2024, pp. 5–7).

The technological and digital revolution has represented a major challenge for banks in the application of the principle of vigilance and caution. The newly emerging digital banks may become a source of multiplied financial risks, which has led the Algerian legislator to regulate this type of banking institution by subjecting its establishment to strict legal and regulatory procedures, particularly regarding the origin of the funds deposited by account holders and beneficiaries. (Gavalda & Stawfft, 1994, p. 87)

2-Improving Performance and Quality

The application of the principle of vigilance and caution by banks serves as a key factor in improving the quality of services provided to the public in an objective and continuous manner. It also fosters healthy competition among banks and encourages them to avoid dubious transactions that may give rise to banking crimes, and in particular the use of the

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bank in laundering operations. For this reason, banks have consistently sought to enhance the quality of their services, aided by the development of digital and technological mechanisms, which has been actively encouraged by the Algerian legislator through the establishment of digital banks. This is reflected in Regulation No. 04-24, which sets out the conditions for the establishment of this type of bank providing services to the public, as well as the required capital (04-24, 2024).

3-Banking Safety from Criminal Risks Arising from Money-Laundering Offences

Banking safety, as a consequence of the application of the principle of vigilance and caution, fosters confidence among those dealing with banks and provides them with a sense of security and trust, while reducing the risks associated with banking management in the context of strict legal compliance and the evolving nature of criminal activity, especially money-laundering operations carried out through banks. This does not, however, imply undue restriction of the freedom of managers and directors to act within the legal framework governing banking activity, without fear of adverse consequences. This is reflected in the Algerian legislator's decision to mitigate the criminalisation of the offence of bad management arising from various banking operations (158, 1966).

This principle was reaffirmed within the framework of the amendment of Law No. 11-03 on money and credit, which strengthened the principle of facilitating and developing services provided to the public and customers on the one hand, and emphasised, on the other hand, the necessity for banks to apply the principle of vigilance and caution, starting from the account-opening stage, through the monitoring and review of all banking operations, and ending with the scrutiny of records, documents, and instruments relating to the banking transactions carried out (23-09, 2023)

Section Two: The Obligations Resulting from the Application of the Rules of Vigilance and Caution by Banks

The application of the rules of vigilance and caution by banks constitutes an action that legally places banks within a framework of a set of rules enabling them to avoid banking deviations in terms of management and control. These limitations may have a legal nature, which will be the subject of the first subsection, and there are also additional constraints linked to the very nature of banking activities, which will be addressed in the second subsection of this point.

First Subsection: Legal-Type Constraints

The legal and regulatory constraints that banks are required to comply with, whether self-imposed or imposed by binding guidelines issued by monetary and financial authorities, represent a mechanism for controlling banks' conduct toward their customers and third parties. They form a set of internal regulatory rules, or rules imposed by the monetary authority, that oblige banking institutions to adhere to the principle of vigilance and caution when opening bank accounts for public or private institutions, or for natural or legal persons,

whether nationals or foreigners, in order to prevent financial crimes, and in particular the crime of money laundering.

The amended and supplemented Monetary and Banking Law (Law No. 23-09) (23-09, 2023) serves as the main reference framework for banking and financial activities, by clarifying the conditions for establishing banks and granting them authorisation and accreditation to carry out banking operations, whether for national private banks or branches of foreign banks, and by specifying the nature of their capital through careful examination of the origin of their funds so that they are not unlawfully derived from drug trafficking or other criminal sources. For this reason, the legal constraints are set out in this law, as well as in the regulations issued by the Bank of Algeria, which stress the necessity for banks to respect the principle of vigilance and caution in their banking activities, including by specifying the minimum capital requirements for banks and financial institutions that must be met in order to obtain authorisation without delay or reduction.

Articles 2 and 3 of Regulation No. 24-02 provide that the minimum capital required for the establishment of banks and financial institutions operating in Algeria must not be lower than the thresholds set therein, stating that the capital of a bank at the time of its establishment must not be less than twenty billion Algerian dinars. As for digital banks, the same provisions of the regulation set the maximum founding capital at ten billion Algerian dinars, while other financial institutions are required to establish a founding capital of six billion five hundred million Algerian dinars (24-02, 2024).

Specifying the conditions for establishing banks constitutes a real application of the principle of vigilance and caution, since the requirement of genuine capital existing before incorporation serves to prevent subsequent insolvency or the use of the bank as a direct or indirect channel for money-laundering operations, which would undermine customer and investor confidence and the bank's value in the monetary market more broadly.

Law No. 05-01 on the prevention and suppression of money-laundering and terrorist-financing offences also establishes procedural rules of a precautionary and preventive nature that are mandatory for banks and financial institutions, specifically aimed at avoiding the crime of money laundering. In this way, the legislator has adopted the constraint of vigilance and caution, even if implicitly, through the regulatory provisions that implement this law. (05-01, 2005)

Second Subsection: The Technical and Financial Constraints Imposed on Banks

In addition to the aforementioned constraints, which constitute legal obligations for banks, the legislator has also imposed constraints of a technical and financial nature, which reinforce intelligent and digital supervision over the activities of banks and financial institutions through the modernisation of the banking sector and its operational mechanisms.

1-Technical and Digital Constraints

The identification and regulation of the digital mechanisms related to banks and their management is a necessary step, especially in light of the expansion of digitisation to all financial and commercial operations through non-traditional procedures, given that banks conduct commercial activities with third parties governed by the provisions of commercial law. (Ordinance.No.75-59, 1975)

These constraints oblige banks to adopt advanced technologies accompanied by a permanent and continuous internet flow, as well as to institutionalise electronic transactions, particularly since the Algerian legislator, when amending the provisions of the Algerian Civil Code, explicitly recognised electronic transactions in the form of electronic contracts and electronic signatures. (75-58, 1975)

Such measures reinforce the principle of vigilance and caution, producing positive effects for banks, especially in combating cyber and digital crime, and in particular the crime of money laundering carried out through electronic channels.

This is particularly evident in the broad powers granted by the Algerian legislator under the new Monetary and Banking Code No. 23-09, which seeks to reform banking management more broadly through the modernisation of banks, under the supervision of the Central Bank as the highest monetary authority in the country, often referred to as the “bank of banks”.

By granting these extensive technical powers, the Algerian legislator aims to bring banks (23-09, 2023) closer to economic actors, promote investment, and open banks up to the public so as to achieve smart economic and social development, which contributes to intelligent financial and monetary stability, characterised by independence, transparency, and technological advancement.

2-Monetary and Financial Obligations

Under the Monetary and Banking Law, banks and financial institutions are subject to obligations of a monetary and financial nature, requiring them to be transparent and accountable and to respect the principle of legality in all financial transactions with their customers. This is particularly important because operations conducted with the public may sometimes be carried out in a manner contrary to the rules of vigilance and caution.

In light of the inherent risks associated with banking operations, and in particular with those conducted with the public and individual customers, banks are obliged to exercise caution and vigilance when granting loans and dealing with third parties, in order to preserve their monetary soundness and ensure the security of the bank deposits entrusted to them by the public. At the same time, this must be done without harming honest banking customers, professionals, or those who observe the ethical rules governing financial transactions.

This objective is reflected in the regulations issued by the Bank of Algeria, notably Regulation No. 04-95, which amends and supplements Regulation No. 91-09 and sets out specific constraints relating to vigilance and caution in various banking operations. In addition, banks themselves have adopted security-oriented measures aimed at ensuring their financial security. (04-95, 1995)

Regulation No. 09-91 further confirms this framework by clarifying the nature and concept of funds that are legally considered “own funds” and the legal protection afforded to them, particularly in the event of embezzlement, bad management, or money-laundering offences (09-91, 1991)

Section Two: The Content of the Legal Framework Governing the Principles of Vigilance and Caution

The legal framework forms the basis for the very existence of banks, and the legislator has sought to equip banks with the necessary material and human resources in order to enable

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them to fulfil their legal functions effectively. In this section, in the first point, the nature, content, and effectiveness of the legal system will be examined, while in the second point the framework will be assessed in terms of its advantages, disadvantages, and expected future outcomes.

First Point: The Content of the Legal Framework

In this point, the legal content of the rules of vigilance and caution will be clarified, first by interpreting and evaluating these rules (first subsection), and then by outlining the complementary regulatory framework that supports the legal framework (second subsection).

First Subsection: The Legal Classification of the Rules of Vigilance and Caution

The issue of the legal classification of the rules of vigilance and caution depends on the extent to which these rules are formally defined. The Algerian legislator has not provided a clear legal definition of the notions of “vigilance and caution” within the Monetary and Banking Code, but rather treats them as general principles that banks are expected to organise and apply in practice, given their impact on the functioning of banks and their role in supporting the national economy and investment.

In this context, the principle of “Know Your Customer” (KYC) (127-02, 2002) has become essential to banking operations, as it requires that banks acquire sufficient knowledge of their customers in order to prevent money-laundering through the banking system. This principle has been reinforced by the Financial Action Task Force (FATF/GAFI), which has supported and clarified its implementation among financial institutions and banks, requiring them to verify the true identity of clients, including their civil and financial status, in order to ensure transparency in banking transactions (Recommendation issued by the Financial Action Task Force (FATF/GAFI) on enhancing transparency in various financial transactions in the banking sector).

Banks must also verify the authenticity of residential addresses and ensure that they are not forged, whether the clients are natural or legal persons, through the verification of registered office addresses. Any breach of these requirements may lead to the application of the new law on forgery and the use of forged documents (24-02, 2024).

To further strengthen the policy of vigilance and caution, a number of binding laws have been enacted, including, but not limited to, the following:

1-Law No. 05-01 on the prevention and suppression of money-laundering and terrorist-financing offences

This law constitutes a core legal framework upon which banks and financial institutions rely to apply the rules of vigilance and caution to all parties dealing with banks. It requires the identification of the real identity of clients prior to any banking transaction in order to prevent the use of banks as a shield for carrying out money-laundering offences.

The provisions of this law are regarded as the primary rules of prudence that banks must respect and apply to all customers, without exception, and to monitor all changes in clients' addresses, whether civil, official, or digital. Banks are also required to prepare regular reports on banking activities and to submit detailed quarterly, semi-annual, and annual reports, especially on suspicious financial transactions, to the competent monetary authorities. (Toumi, 2007-2008, pp. 13-14)

Although this law has had positive effects in reinforcing vigilance and caution, it appears necessary to strengthen certain general terms used within it, such as “illicit property”, “investigation”, and “verification” (05-01, 2005).

The legislator has therefore modified this law by Ordinance No. 12-02, which emphasises the priority of the principles of vigilance and caution in banking operations (12-02, 2012), thereby confirming the legislative will to combat money-laundering through banks and their branches, and to establish the responsibility of banks, particularly their branches, in terms of the obligation to obtain authorisation and accreditation for all banking operations (127-02, 2002).

Given the growing prevalence of cyber-crime, including money-laundering operations carried out through traditional or digital banks, the Algerian legislator has imposed specific criminal sanctions under Article 389-07 of the Algerian Penal Code. (389-07, 1966)

Law No. 06-01 on the prevention and suppression of corruption

Within the framework of Law 06-01, the provisions of vigilance and caution are reflected in the various procedures that banks are required to follow in order to prevent money-laundering (06-01, 2006), which is considered a form of public corruption and illicit enrichment from public funds deposited in banks. (127-02, 2002)

This has led the Algerian legislator to establish a high-level authority for the prevention and suppression of corruption.

The Monetary and Banking Code (Law No. 23-09)

The provisions of the Monetary and Banking Code are binding on banks, especially in relation to the obligation to respect the rules of prudence, vigilance, and supervision necessary for the proper conduct of banking activities. The fate of banks is closely linked to strict compliance with the provisions of this Code, in order to avoid management deviations and the commission of money-laundering offences (23-09, 2023)

Second Subsection: The Role of Bank of Algeria Regulations in Prevention and Caution

Bank of Algeria’s regulations occupy a central position in banking practice, especially in relation to the policy of vigilance and caution, to which banks are legally required to adhere and implement. These are regulatory instruments issued under the authority of the Central Bank, and the most important among them are as follows:

1-Regulation No. 05-05 on the prevention and combating of money laundering and terrorist-financing, which constitutes a fundamental framework for the application of vigilance and caution by banks in all banking operations, particularly by requiring the verification of the identity of all customers, without exception (05-05, 2005).

2-Regulation No. 08-12 on the internal control of banks and financial institutions, which reinforces the principle of vigilance and caution by strengthening internal control mechanisms in accordance with banks’ internal regulations, by monitoring all documents and records, and by reviewing and updating them regularly (08-12, 2012).

3-Regulation No. 03-12 on the prevention and combating of money laundering and terrorist-financing, which aims to encourage banks and financial institutions to adopt all

necessary measures to combat money-laundering operations, as provided for in Article 4 of the regulation. (03-12, 2012)

4-Regulation No. 24-03 on the prevention and combating of money laundering and terrorist-financing, through which the Central Bank has emphasised that compliance with the rules of vigilance and caution by banks is mandatory, under the threat of various sanctions (24-03, 2024).

5-Executive Decree No. 157-13 on the combating of the offence of money laundering and terrorist-financing, which consolidates the principle of vigilance and caution and the monitoring of all banking transactions, whether domestic or cross-border, in order to protect the reputation of banks at the national and international level. (157-13, 2013)

Second Point: Assessment of the Regulatory and Legal Framework Establishing the Rules of Vigilance and Caution

The assessment of the legal and regulatory framework is a fundamental and highly important issue, as it makes it possible to measure the effectiveness of that framework. In the first subsection of this point, the legal framework will be evaluated, and in the second subsection, the regulatory framework will be assessed.

First Subsection: Critical Evaluation of the Legal Framework

The aforementioned legal framework is of great importance in establishing the rules of vigilance and caution, as it shields banks from various financial risks, particularly financial crime, fraud, and embezzlement aimed at committing money-laundering offences. This has granted banks greater protection and has enabled them to secure preferential treatment in national and international financial markets, particularly in relation to investments that they finance directly or indirectly.

In addition, the direct supervision exercised by the Central Bank, or through the mechanisms established by the Monetary and Credit Council and the Banking Commission, has reinforced the protection granted to the rules of vigilance and caution (23-09, 2023).

However, some legal gaps and shortcomings remain, which require the legislator to reconsider them, particularly by granting banks broader powers to prevent money-laundering offences and by providing a precise and clear definition of the principle of vigilance and caution, through greater harmonisation between legal and regulatory texts, in particular Law No. 05-01 on the prevention and combating of money laundering and terrorist-financing (05-01, 2005) and Law No. 06-01 on the prevention and combating of corruption (06-01, 2006).

Given that money-laundering offences are transnational in nature, the legislator should also issue the necessary implementing regulations and decrees based on these laws, in order to clarify the real meaning and scope of the principle of vigilance and caution in combating money-laundering offences. Furthermore, the content of vigilance and caution should be re-formulated in an unambiguous manner within the new Monetary and Banking Code, (23-09, 2023) and Bank of Algeria's regulations should be aligned with technological and digital developments in the field of anti-money-laundering measures.

Second Subsection: The Pillars Capable of Strengthening the Principle of Vigilance and Caution in Banking

There are several key pillars that banks must observe in order to strengthen the principle of vigilance and caution in banking practice, and thereby avoid financial crime in general and money-laundering offences in particular. Banks must exercise continuous supervision, control, and guidance over all financial transactions, from the opening of accounts to their closure.

Human factors should be strengthened through re-training and updating staff skills, so that they are able to adapt to contemporary values, especially in the context of digitisation and artificial intelligence. This can only be achieved by re-examining the role of financial accounting and its function in monitoring financial transactions, even those originating outside banks, but which may have consequences on subsequent banking operations, whether through the General Directorate of Finance or the Court of Accounts. (08-273, 2008)

Banks should also be encouraged to establish internal control mechanisms (10-02, 2010), both prior to and after transactions, and to provide their staff with regular training courses on combating financial crime through vigilance and caution. The implementation of early-warning systems is also essential, whether in the review of mortgage-loan-granting mechanisms or in the acceptance of bank deposits, while clearly defining the maximum and minimum risks that banks, and particularly commercial banks, may face.

Finally, the non-compliance by banks with the rules of vigilance and caution, as well as the failure to report suspicious activities, especially in relation to money-laundering offences, must be clearly criminalised, and the legislator must pay particular attention to this issue in order to ensure effective prevention and deterrence.

Conclusion

The examination of the principle of vigilance and caution in this article is necessary in order to understand the content and legal scope of this principle, as well as the practical mechanisms through which it is applied, all of which contribute to preserving the financial soundness of banks against any conduct, whatever its source, that may harm the bank's reputation. The aforementioned legal provisions demonstrate that the Algerian legislator has covered the various aspects of the principle of vigilance and caution and has accorded it the utmost importance, due to the serious risks associated with banking operations in the medium and long term. This reinforces the responsibility of banks in general, and in particular, and may extend to criminal liability for "unclean" funds. (Slimane, 1991, p. 111)

However, it appears necessary to strengthen this legal and regulatory framework by establishing and issuing a specific legal regime on the principle of vigilance and caution that banks are required to follow, especially in the context of the rapid technological and digital developments of our time. Money is no longer circulated in a traditional manner, as in the distant past, and may in the future take the form of non-tangible digital currencies. Consequently, banks must adapt to this new environment so as not to remain confined to bureaucratic procedures that are overtaken by financial crime. This is precisely the approach that Algeria has adopted by committing itself to the international conventions on the prevention and combating of money laundering and terrorist-financing (2000-245, 2000).

References

- 03-11, L. N. (2003, 8 26). relating to money and credit, as amended and supplemented.
- 03-12, R. N. (2012, 11 28). on the prevention and combating of money laundering and terrorist-financing, Official Journal No. 12 of 27-02-2013.
- 04-24, A. O. (2024 , 10 13). -on the specific conditions for the authorisation and establishment, accreditation, and operation of a digital bank, Official Journal No. 77 of 19-11-2024.
- 04-95, R. N. (1995, 1 20). amending and supplementing Regulation No. 91-09 of 14-08-1991 on the rules of prudence in the management of banks and public institutions, issued in 1995.
- 05-01, L. N. (2005, 02 06). on the Prevention and Suppression of Money Laundering and the Financing of Terrorism, Official Journal No. 11 of 09-02-2005, as amended and supplemented.
- 05-05, R. N. (2005, 12 15). on the prevention and combating of money laundering and terrorist-financing, Official Journal No. 84 of 25-12-2005.
- 06-01, L. N. (2006, 2 20). on the prevention and repression of corruption, Official Journal No. 43 of 2006, as amended and supplemented.
- 08-12, R. N. (2012, 11 28). on the internal control of banks and financial institutions, Official Journal No. 47 of 2012.
- 08-273, E. D. (2008, 9 6). on the organisation of the central structures of the General Directorate of Finance, Official Journal No. 50 of 2008.
- 09-91, R. N. (1991 , 08 14). setting out the rules of prudence in the management of banks and financial institutions. Official Journal No. 24 of 29-03-1992.
- 10-02, O. N. (2010, 8 26). amending and supplementing Ordinance No. 95-20 of 17-07-1995 on the Court of Accounts, Official Journal No. 50 of 01-09-2010.
- 12-02, O. N. (2012, 2 13). amending and supplementing Law No. 05-01 of 06-02-2005 on the prevention and suppression of money-laundering and terrorist-financing offences, Official Journal No. 06 of 15-02-2012.
- 127-02, E. D. (2002, 4 7). on the establishment, organisation, and operation of the Financial Intelligence Unit, issued in 2002, as amended and supplemented.
- 157-13, E. D. (2013). the combating of the offence of money laundering and terrorist-financing.
- 158, o. N. (1966, 6 8). on the Penal Code, previously cited.
- 2000-245, P. D. (2000, 12 23). ratifying the United Nations Convention for the Suppression of the Financing of Terrorism, Official Journal No. 01 of 03-01-2001.
- 23-09, L. N. (2023, 3 21). on the Monetary and Banking Law, Official Journal No. 43 of 27-06-2023.
- 24-02, R. N. (2024, 2 6). on the minimum capital requirements for banks and financial institutions operating in Algeria, Official Journal No. 18 of 06-02-2024.
- 24-03, R. N. (2024, 7 24). on the prevention and combating of money laundering and terrorist-financing, issued in 2024.
- 389-07, A. (1966, 6 8). of Ordinance No. 66-158 on the Penal Code, previously cited.
- 66-158, O. N. (1966, 6 08). on the Penal Code, previously cited.
- 66-158, O. N. (1966, 6 08). on the Penal Code, Official Journal No. 49 of 11-06-1966, as amended and supplemented.
- 75-58, O. N. (1975, 9 26). on the Civil Code, Official Journal No. 78 of 1975, as amended and supplemented.
- 89-18, O. N. (1989, 02 28). Constitution of 1989 promulgated by Executive dated, Official Journal No. 09 of 01-03-1989.

- 90-10, L. N. (1990, 4 14). relating to money and credit (repealed).
- Aït Ouazou, Z. (2012). The Responsibility of the Central Bank in Facing Banking Risks under Algerian Law, PhD thesis in Law. University of Mouloud Mammeri, Tizi Ouzou.
- Al-Fayrūzābādī, M. a.-D. (1978). *Al-Qāmūs al-Maḥīṭ*, Vol. 2. Beirut: Dār al-Fikr for Printing, Publishing and Distribution.
- Gavalda, C., & Stawfft, J.-D. (1994). *Banlois: Le droit bancaire*. Paris.
- Gouani, S. (2024). The Impact of Financial Risks on Capital Adequacy in Commercial Banks: A Standardised Study of a Sample of Countries, 2008–2021, PhD thesis. Faculty of Economics, University of 08 May 1945, Guelma.
- Haddid, A. (n.d.). The Legal Framework of Private Banks in Algeria, Master's thesis in Law (Business Law branch). Tizi Ouzou: Faculty of Law and Political Science, University of Mouloud Mammeri.
- Ordinance.No.75-59. (1975 , 09 26). on the Commercial Code, Official Journal No. 78 of 1975, as amended and supplemented.
- Recommendation issued by the Financial Action Task Force (FATF/GAFI) on enhancing transparency in various financial transactions in the banking sector. (n.d.).
- Slimane, A. M. (1991). Criminal Responsibility of Banks in Relation to Unclean Funds (Money Laundering). Cairo: Al-Dar al-Jami'iyya al-Jadida.
- This principle constitutes one of the core rules of the Financial Action Task Force (FATF/GAFI). (n.d.).
- Toumi, N. (2007-2008). The Bank's Obligations in Combating the Crime of Money Laundering, Master's thesis in Private Law, specialisation in Economic Reform Law. Faculty of Law and Political Science, University of Jijel.