

MECHANISMS TO COMBAT INTERNET MONEY-LAUNDERING UNDER THE UNITED NATIONS CONVENTION AGAINST ORGANIZED CRIME

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Abstract:

Today's technological development in the field of the information revolution has been accompanied by rapid growth in innovation and technology technologies which has brought about radical changes in the methods and patterns of work in all fields, particularly in the business sphere, Some commercial transaction rules changed and resulted in the birth of a modern type of trade and permanently eliminated boundaries and physical and geographical constraints This has become e-commerce, and it has become easy to move capital across different countries. and this facilitated the widespread crime of money-laundering or laundering, which is considered one of the most serious global crimes as an economic crime affecting the economy of States and the international economic system, It is one of the most complex cross-border crimes of its ability to penetrate the State's systems and of its serious economic, social, political and security repercussions.

Hence the importance of moneylaundering as an international phenomenon is no longer confined to traditional images, but through modern electronic means in which the Internet is used, They must therefore be combated by the various mechanisms available, including those enshrined in the United Nations Convention against Organized Crime of 2000, The problem therefore revolves around the latter's forms of mechanisms.

To answer the main problem, we address the research being studied in researchers where in the first research we touch on the conceptual framework of the crime of money whitewashing via the Internet. by referring to its definition and characteristics, and modern images of the crime of money-laundering via electronic media In the second study, we address mechanisms for combating the crime of money-laundering through the Internet provided for in the United Nations Convention against Organized Crime of 2000, namely preventive mechanisms for crime prevention and deterrent mechanisms for crime reduction.

Keywords: organized crime, money-laundering, electronic media, economic crime

Introduction

The current development of information and communications technologies has been accompanied by the expansion of cybercrime, which is more serious than ordinary criminality, since the electronic world is difficult to track the effects of remotely occurring crime, so the crime of money laundering has moved from the real world to the virtual world, developing its methods according to modern techniques.

The offence of online money laundering is based on the demonstration of funds resulting from business-related crimes and illicit trade such as drugs, terrorism and others, by removing its dirty feature and using it online as a way of concealing its illicit resource if it intends to introduce such illicit funds into the financial movement through the use of means of The

importance of the topic is to consider the phenomenon of money-laundering as an international phenomenon. It is no longer confined to traditional images, but through modern electronic means in which the Internet is used. What must be combated by the various mechanisms available, including those enshrined in the United Nations Convention against Organized Crime of 2000, and we therefore raise the following main problem: the mechanisms for combating money-laundering through the Internet under the United Nations Convention against Organized Crime?

To answer the main problem, we address the research being studied in two sections where in the first section we touch on the conceptual framework of the crime of money whitewashing via the Internet. by referring to its definition and characteristics, and modern images of the crime of money-laundering via electronic media. In the second section, we address measures to combat the crime of Internet money-laundering enshrined in the 2000 United Nations Convention against Organized Crime, namely preventive and deterrent mechanisms for crime prevention.

section1: The conceptual framework for crime whitewashing money via electronic media

The offence of money-laundering is a serious offence because of its adverse effects on the economic, social and political aspects, especially in developing countries. And it crosses borders and threatens economic and social stability because it simply expresses lobbies with different headings. Once drugs, one weapon, another prostitution, another looting of public money, Whitewashing and money-laundering can be classified as one of the continuing crimes that persist for the duration of the offender's enjoyment of the proceeds of money free and not statutory. and the turnover of such receivables in any other business activities, before or after their laundering and, since it is also a global crime not limited by a particular geographical or regional extent, Since the money to be laundered, after being subjected to the dispersal process, They are converted, from this point of view we address in the first requirement the different definitions of the crime of money-laundering in the digital environment, In the second requirement, we deal with different images of the offence of money-laundering via the Internet.

Subsection1: different definitions of the crime of money-laundering in the digital environment

Part of the doctrine goes on to say that money laundering conceals the truth of money derived from illicit means by exporting it, depositing it, employing it or investing it in legitimate activities to escape it.

A part of the doctrine goes on to say that money laundering hides the truth of money derived from an illicit route by exporting it and their placement, employment or investment in legitimate activities to escape seizure or confiscation; Show it as if it were derived from legitimate sources and whether the deposit, camouflage, transfer, transfer or employment took place in developed or developing countries.

Most jurists have defined money laundering as concealment, transfer or manipulation of funds. If it derives from a crime with knowledge, Where the intention of the conduct is to conceal or disguise the nature, origin, location or right holder of the money, to change its truth or to prevent it from being discovered or to obstruct access to a person who has committed the offence from which the money is obtained.

Seizure or confiscation, as if derived from legitimate sources, whether the deposit, camouflage, transfer, transfer or employment took place in developed or developing countries.⁽¹⁾

¹Issam Ibrahim al-Tarsawi, money laundering internationally, regionally and locally, Al-Ahram Economic Book, No. 110, 01 March 1997 To answer the main problem, we address the research being studied in researchers where in the first research we

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The 1988 Basel Declaration defined the offence of money-laundering as all banking operations carried out by the perpetrators and their partners to conceal the funds' criminal source and owners. ⁽²⁾.

In the same vein, the offence of money-laundering in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances was defined in article 03 of 1988 as the offence of transferring and transferring funds, knowing that it derives from any of the drug offences or from an act of participating in such an offence with the aim of concealing, concealing or disguising the money, or the fact of the money.⁽³⁾

This United Nations Convention against Transnational Organized Crime 2000 followed the Vienna Convention of 1988, but was more precise in terms of the identification of predicate offences. In terms of preventive and repressive measures for the crime of money-laundering offences ", as evidenced by the fact that money-laundering is not limited to funds derived from a particular type of criminal activity such as those contained in the 1988 Vienna Convention, article 02 e of the 2002 Palermo Convention indicates that proceeds of crime are any property derived or obtained directly or indirectly from the commission of a crime.⁽⁴⁾ and thus this is normal because organized crime activities are multiple and new activities can be introduced in the criminal trade underlying this type of crime.

In line with the urgent plan initiated by the Algerian Ministry of Justice in 2001 and reflecting the recommendations of the National Commission for Justice Reform concerning the need to review the entire legal texts of this sector, in order to bring the Penal Code into line with our country's economic, political and social transformations and with a view to addressing new forms of crime that threaten individual and collective security, Also in order to bring national law into line with international standards and our country's Convention obligations and, accordingly, the first legal text to speak of money-laundering in Algeria, When we examine this legal text, Algerian legislation has approached the approach of previous international legislation in not adopting the broad legal definition of the crime of money-laundering. Law No. 15/04 was amending and supplementing Order No. 66/156 of the Penal Code, article 01 of which stipulates that, in addition to the provisions of the Penal Code, This Act aims to prevent and combat money-laundering and terrorist financing.

Article 02 of Act No. 23/01 on the Prevention and Control of Money-Laundering and the Financing of Terrorism refers to money-laundering as the transfer or transfer of property with the knowledge of the perpetrator as criminal proceeds. for the purpose of concealing or disguising the illicit origin of such property or of assisting any person involved in the commission of the original crime from which the property was obtained to escape effective legal effects, Acquisition, possession or use of property with the knowledge of the person at

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1Nabih Saleh, Crime of Money Laundering in the Light of Organized Crime and the Risks Involved, Al-Jalal Printing Company, Egypt, 2006, p 30.

2WassimHussam al-Din al-Ahmad, Combating Money Laundering in the Light of Domestic Legislation and International Conventions, Halabi Rights Publications, Lebanon, first edition, 2008, p 20.

3Nader Abdul-AzizShafi, Money Laundering Crime, Modern Book Foundation, Lebanon, 2005, p 32.

4Issam Ibrahim al-Tarsawi, op.cit, p 146.

the time of receipt that the property constitutes proceeds of crime offence, the offence of money-laundering is independent of the original offence and, regardless of whether or not the original offence is convicted⁽¹⁾.

In this sense, money-laundering can be defined as the process whereby the profits generated by operations with criminal activity and illegitimate activities are injected into the global financial system, making it difficult to identify the original sources of such funds and thus can be spent and invested for legitimate purposes.

Electronic money-laundering is the adaptation of electronic means with the aim of concealing or disguising the true source of funds derived from illegal activities and recycling them into commercial activities consistent with the law's provisions.

The criminal offence committed in the case of money-laundering in its modern pattern is compatible with the criminal offence in its traditional position, but it differs from the means used to commit it. At present, the Internet and the computer are able to give a significant degree of anonymity to the offender in a modern manner. Thus, the offence of money-laundering through the digital environment has several characteristics:

- The crime of whitewashing money is considered a global crime as the most internationalizing crime. If not indeed a State offence, the predominance in the money-laundering process is that the original offence is the source of illegitimate money in the territory of a State⁽²⁾. Whilst money-laundering activity is distributed to the territory of another country, its constituent elements are scattered, especially with the emergence of modern methods of committing such as instant electronic bank transfers and the entry of very modern means into the banking service.
- Money-laundering offences are considered organized crimes. In organized crime, we are in front of a plurality of perpetrators who have contributed to the investigation of the elements of the crime together⁽³⁾. As the crime product here becomes the result of the combined efforts of these people, both of whom have exercised their will as part of the total component of the crime. And so there have to be two prerequisites for us to describe an organized crime on the money-laundering phenomenon, Where the first condition is the multiplicity of participants in the offence, which is intended here to contribute a group of individuals by committing an offence by cooperating with them and no difference as to whether the role is a major or a thanoyanrole⁽⁴⁾ , The second clause provides for the integrity of the offence and means both material and moral unity.
- The crime of money-laundering is an economic crime that directly affects the State's economy and threatens its entity with collapse State ", because the funds being incorporated into the legitimized economy of the target State play no positive role in supporting that economy, It soon had a negative effect on it by withdrawing it from the market once it had acquired a legitimate source to which it could be attributed. s purchasing power will be driven by inflation.

Subsection2: Modern methods of money-laundering operations using electronic media

There is no doubt that electronic media plays an important role in completing the structuring of illegal funds in technical ways that make it difficult to detect crime s crime ", on the

1 Act No. 23/01 of 16 Rajab, 1444, corresponding to 07 February 2023, amends and approves Act No. 05/01 of 27 DhuHajjah, 1425, corresponding to 06 February 2005, on the prevention and control of money-laundering and the financing of terrorism. Official Gazette No. 08, dated 17 Rajab, 1444, corresponding to 08 February 2023.

2Wilfredjeandidier ,droitpénal des affaires, 2eme édition, Dalloz ,paris1997,p 144.

3Casenavedecheix, le blanchiment de l'argent de la drogue, revue internationale de droit comparé, Vol 46 N° 01, janvier 1994, p 147.

4Issametarsaoui, op.cit, p146.

grounds that it lends an electronic offence to the offence of money-laundering, The consequences of the crime cannot be identified because the perpetrator seeks to observe evidence that enables the judicial authorities to detect the crime. And there are many electronic means that play the role of the perpetrator of money laundering

Paragraph 1: Offence of money-laundering through electronic money

Money launderers use multiple means to commit their crimes. These means are the tools and methods they adopt to carry them out. These tools and methods cannot be collected in a single, specific framework. Electronic money is one of the most modern means adopted by money laundering in the commission of its crime, but the role of other means of laundering cannot be overlooked.

Electronic money is one of the most dangerous modern technical means used to commit money laundering by exploiting them by professionals who commit money-laundering offences worldwide, By converting their receipts from illicit funds to electronic money⁽¹⁾ and their introduction into large investment projects, highlights the role of electronic money in contributing to the concealment of illegal proceeds of criminals and investing them in projects consistent with the provisions of the law e-money, characterized by the speed of its circulation and the difficulty of tracking its movement through electronic means, Moreover, they do not adhere to a temporal and spatial scope by which the application of the rules of law to the act committed can be controlled.

Paragraph 2 Commission of the offence of money-laundering through smart cards

Smart cards are currently widely used in facilitating money laundering operations in view of the rapid developpement that is taking place to facilitate payment and remittances, such as the use of the phone and the Internet money laundering enables the perpetrator to make transfers of large quantities of money without fear of identification and disclosure, In particular, the cards are easy to carry and use across the country's borders at the international level and the difficulty of detecting the source of funds through them.

Smart cards are an easy way to whitewash money, as the cardholder can consume smart kart value in expensive purchases. He then recharges it with money deposited with his bank electronically with money he wishes to exchange. in which the account holder can withdraw funds electronically at moments from anywhere in the world, In practice, money laundering if it puts its money in local currencies does not have an appropriate exchange rate compared to strong-cap foreign currencies such as dollars and euros. foreign exchange ", it resorted to States dealing in such currencies and withdrew its funds electronically from borders at little risk. The second could open a new account abroad in a strong currency and a legitimate source⁽²⁾ .

The smart card works simplistically, it works contactlessly in the sense that electronics are completely closed in the card range but are confined between two thin chips of plastics The card carries many pages of the personal information of the card user and the data is transferred between the card and the reading center writing once the card is entered, This smart card is strong, durable, resistant to damage and does not require data and information to be transmitted or contacted metallically like other smart cards, so electronic equipment is installed on the card's surface.

¹ Electronic money is defined as a digital repository with a monetary value that can be used to meet contractual obligations via electronic means.

² Mohammed Nasser and others , Smart Card and its Impact on Reducing Certain Banking Risks, Baghdad College of University Economics Journal, Iraq, No. 37/2013, p 84.

Paragraph3:The role of Internet banks in money-laundering

Electronic banks serve as electronic outlets that provide various banking services without stopping and without human labour. They are based on automated accounts with a wide range of time as they provide services for 24 hours without stopping, and spatially all over the world⁽¹⁾, Online banks or Internet banks are not banks in the common sense. They do not accept deposits or offer bank facilities, but are intermediaries in certain financial transactions and sales. Their dealers enter the secret code and print it on the computer, and they can transfer their funds in the way ordered by the device.

Electronic banks are one of the most modern means of facilitating illicit money-laundering, allowing white people to transfer or transfer large quantities of money quickly and safely because they operate in an area of comprehensive secrecy and their dealers are anonymous. In addition, these criminals can at a limited time make several transfers of such funds from one account to another across several parts of the world, making it difficult to track and detect them.

This method is used in money laundering by making deposits and transfers from another account and from one country to another in order to legitimize the source of dirty money and there is no specific mechanism to control how to ascertain the services provided online, The online banking system provides convenience for customers as it saves them the burden of going to the bank headquarters and standing in a long queue until they get the service and provides him with time and good services to pay the bills for the goods and services he gets effortlessly.

The offence of whitewashing money online is characterized by the difficulty of detecting and prosecuting other types of crimes. the international character and camouflage through which it becomes a threat to international and domestic stability at all levels, Before considering the criminalization of the act objectively, it was necessary to think about ways of preventing it and disclosing it if it was done. In a number of States, the national legislature has emphasized the need for flexible and effective legal instruments to be added to Algerian texts, as the latter is insufficient to serve the purpose; this enables the competent authorities to reduce the impact of this phenomenon.

Section 2: Measures to combat the crime of money-laundering on the Internet under the United Nations Convention United Nations Action against Organized Crime 2000

The United Nations Convention against Transnational Organized Crime was promulgated by the United Nations General Assembly in December 2000, which entered into force on 29 September 2003. This Convention is an important international document in the fight against the crime of traditional money-laundering or through digital media. Convention on the Elimination of All Forms of Discrimination against Women, where the Convention was concerned to criminalize money-laundering operations, given the major objective of organized crime gangs to earn money and although a large proportion of these funds come from illicit trafficking in narcotic drugs and psychotropic substances, other organized crime activities constitute a high proportion of the total illicit proceeds that leak into the global financial system, The Convention contains preventive and other deterrent mechanisms to combat the crime of money-laundering via the Internet. In the first subsection t, we deal with preventive mechanisms to prevent the crime of money-laundering through the Internet. In the second subsection, we deal with deterrent mechanisms to reduce it.

Subsection1: preventive mechanisms to prevent the crime of money-laundering on the Internet

¹Yousef Masadwi Electronic Banks, Algerian Banking System Forum and Economic Transformations Reality and Challenges, Magazine Faculty of Humanities and Social Sciences, 14 and 15 December 2004, p. 227.

The international community has intensified its efforts to confront the crime of traditional and modern money-laundering in recent times due to the recent proliferation of money-laundering worldwide in an interesting manner. ", which called for a serious attitude on the part of States in view of the consequences of such crimes, as they have had a direct and negative impact on the value of the national currency, as the replacement of the national currency derived from criminal activities by a foreign currency for the purpose of laundering it by transferring it would result in a devaluation towards the currency transferred to it, This increases the supply of the national currency and increases the demand for foreign currency and the supply of national currency with increased demand for foreign currency deplete the State's foreign exchange reserves⁽¹⁾, Officials may raise interest rates to maintain domestic savings to convert into foreign currencies and undoubtedly, higher interest rates are one of the important obstacles to investment.

Money laundering is also adversely affected by savings and investment for savings, the smuggling of national capital abroad, and cash transfers to foreign banks leak a portion of national income. low savings rate and its inability to meet investment needs, At the same time as consumption is increasing without a similar increase in output and the State may compensate for this lack of domestic savings for investment needs to use foreign resources ⁽²⁾, whether in the form of foreign loans, The consequent increase in external indebtedness and its economic and political implications for the borrowing country.

Subsection2:Deterrent mechanisms for reducing the crime of money-laundering via the Internet in the light of the United Nations Convention against Transnational Organized Crime

The United Nations Convention against Transnational Organized Crime, together with preventive mechanisms preventing the crime of money-laundering through the Internet, included a series of deterrent measures against money-laundering, which each State Party must take and which put an end to the crime of money-laundering through the digital environment and which is currently widely known:

- Each State Party to the United Nations Convention against Transnational Organized Crime shall take such measures as may be necessary to establish its jurisdiction over the offence of digital money-laundering, when the offence is committed in the territory of that State Party, or when the offence is committed on board a ship flying that State Party's flag or an aircraft registered under the laws of that State at the time of the commission of the offence.
- The State Party shall take all necessary measures to establish the applicability of its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and does not extradite him⁽³⁾.
- If the State Party knows that one or more other States Parties are investigating, prosecuting or taking judicial action on the same conduct, the competent authorities of these States Parties shall consult with each other, as appropriate, with a view to coordinating their measures, without prejudice to the rules of general international law.
- All States parties that make extradition conditional on the existence of a treaty shall inform the Secretary-General of the United Nations at the time of its deposit of the instrument of ratification, acceptance, approval or accession to this Convention, Whether this Convention will be regarded as the legal basis for cooperation on extradition with other States Parties to this Convention and, where appropriate, seek to conclude extradition treaties with other States

1MufidNavf al-Dilmi, Money Laundering in Criminal Law (Comparative Study), Culture Publishing and Distribution House, Amman, 2006, p 70.

2Chappez Jean. La lutte internationale contre le blanchiment des capitaux d'origine illicite et le financement du terrorisme, Annuaire français de droit international, Vol 49, 2003, p 156.

3WassimHussam al-Din al-Ahmad, op. cit, p75.

Parties to this Convention with a view to implementing this article extradition ", if it does not consider this Convention to be the legal basis for cooperation on extradition.

- If the State party in whose territory the alleged offender is present does not extradite that person in respect of the offence of money-laundering for the sole reason of being one of its nationals extradition ", at the request of the State party requesting extradition to refer the case without undue delay to its competent authorities for the purpose of prosecution, Such authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a serious nature under that State party's domestic law and States parties concerned cooperate, in particular in the procedural and evidentiary aspects, to ensure the effectiveness of such prosecution⁽¹⁾.

- The State party may request mutual legal assistance in order to obtain evidence or tatements from persons, communicate judicial documents, carry out searches, seizures, freezes, inspection of location objects, and provide experts' information, evidence and assessments. and the presentation of the assets of the relevant documents and records, including government, bank, financial, corporate or business records, certified copies, identification or tracing of proceeds of crimes, property, instruments or other objects for the purposes of obtaining evidence, To facilitate the voluntary appearance of persons in the requesting State Party, any other type of assistance is not inconsistent with the requested State Party's internal law.

Conclusion:

Undoubtedly, the growing reliance on the information media in our lives has made the crime of money-laundering an innovative model of crime, making it possible to commit it by modern technical means under the secrecy of bank transactions that are difficult to differentiate between funds of legitimate origin and others of illicit origin.

Results:

- Money-laundering is a grave economic offence that would have serious consequences at various levels if not detected early and combating them by the means required, as they are carried out through gangs with substantial funds resulting from prohibited operations such as drugs and corruption activities where they introduce such dirty money into a financial movement through the use of the Internet.

- Despite all efforts at all levels, international cooperation to combat the crime of money-laundering through digital media continues to be ineffective owing to the complexity and slowness of the proceedings, and States are argument the principle of national sovereignty, public order, security and State interests.

- Notwithstanding the effective role of exchange of information on suspicious operations in combating the laundering of funds via the Internet, it seems very difficult to agree on the international will to work effectively in the field of exchange of information. States continue to respond to such requests because of their concern for their own interests and their desire to monopolize information.

- The crime of whitewashing and money laundering creates several criminal activities that generate money. And the recipients try to legitimize it in any way. At present, investment is an entry point for the activity of criminal groups seeking the same purpose. and regarding the methods of committing money-laundering, there is a close correlation between the complexity of money-laundering methods and the sophisticated potential of modern technology, as well as global economic openness.

1Abdelwahabassaydi. Arafa, Al-Wajiz in Combating Money Laundering, University Publications House, Alexandria, 2006, p. 114.

Proposals:

- To take careful and careful measures in the handling by banks of banking activities carried out in the Internet, since the focus of money launderers is on such banks, and in such ways as to serve as a reserve for their trade, especially for countries that know a deficit in the general regulatory system of countries.
- Establishment of an international training centre specializing in training personnel in financial institutions and specialized agencies to combat traditional and modern money-laundering In order to keep pace with technical development, the staff of the Financial Investigation Units are trained internally and externally, enabling them to develop their skills and contact with distinctive expertise, and to see modern methods and techniques to detect and prosecute money-laundering.
- Review by Member States of the United Nations Convention against Transnational Organized Crime, 2000, of the national legal system with a view to adapting it to their international obligations, in particular with regard to reviewing the control methods of financial institutions so that they can be a safety valve for money-laundering offenders.
- The technological and information revolution should be used to combat money-laundering in order to keep pace with innovative methods of committing this type of financial crime.

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