

THE ETHICAL DIMENSIONS OF THE FIGHT AGAINST MONEY LAUNDERING

Litkevich V. S.

*Candidate of Legal Sciences, Associate Professor,
University of Mannheim,*

*Funded by the Deutsche Forschungsgemeinschaft
Federal Republic of Germany*

In the current context of financial globalisation, effective anti-money laundering (AML) measures are essential to safeguard the integrity of the international financial system and protect it from misuse [1, p. 7]. In nearly all jurisdictions, money laundering (ML) is recognised as a criminal offence. However, the legal mechanisms underpinning AML are increasingly encountering challenges that are not only legal but also ethical. This is largely due to the fact that the laundering of illicit funds is often carried out through schemes that formally adhere to financial regulations, are legally supported, and are ethically masked.

As a result, money laundering not only violates the law but also constitutes a profound breach of fundamental ethical norms, as legal institutions are exploited to conceal and reinvest proceeds of violence, corruption, fraud, and other forms of criminal conduct. Such practices erode public trust in financial institutions and undermine the principles of justice, integrity, and the rule of law.

Another crucial aspect of the ethical dimension of AML lies in the responsibility of the state to respond to financial crime primarily through lawful means—namely, criminal and administrative law, financial oversight, international cooperation, regulatory frameworks, and sanctions. However, increasing intrusion into the private sphere, the widespread application of risk-based approaches, mass surveillance of financial transactions, and the limitation of banking, legal, and commercial confidentiality raise pressing ethical concerns:

- Where is the boundary between legitimate enforcement and infringement of personal freedoms?
- How can we prevent abuses of financial oversight mechanisms or their misuse for political persecution?
- Can the fight against money laundering be effective without a clearly articulated ethical foundation?
- How can legality, fairness, and effectiveness be properly balanced?

Answering these questions is essential. As Georg Simmel observed, values and ethical considerations are fundamental to the structure and function of economic life [2, p. VI]. Ignoring or distorting these dimensions leads to the loss of the economy's social legitimacy.

The experience of countries with developed financial systems shows that ethical concerns have significantly influenced the development of national AML legislation. In the United States, efforts to strengthen AML measures were driven by the need to combat the unintentional societal facilitation of organised crime, especially in relation to the drug trade [3]. In the United Kingdom, the adoption of the Proceeds of Crime Act 2002 (POCA) was motivated by the aim to reinforce public trust in the justice system and to combat socially harmful behaviours [4]. In Switzerland, the primary concern was the protection of the country's reputation as a trustworthy financial hub [5].

At the international level, a key ethical milestone in AML efforts was the adoption of the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances [6]. This convention not only initiated the formation of an international AML regime but, for the first time, classified the laundering of proceeds derived from criminal activities as a criminal offence—clearly expressing the international community's ethical stance against actions that undermine integrity, legality, and justice.

Subsequently, the ethical underpinnings of AML were reflected in the mechanisms for ensuring compliance with the so-called normative constitution of the international PBC regime – the 40 Recommendations of the Financial Action Task Force (FATF). Recognition of a national system's compliance with these standards serves as a positive ethical and reputational incentive, strengthening public and international trust in a country's financial system. Conversely, poor compliance ratings can lead to negative consequences, such as diplomatic pressure, reputational damage, placement on "blacklists" [7, pp. 56–57], reduced credit ratings, restricted access to international financial markets, increased transaction costs, or even denial of banking services.

In national legal systems, the ethical dimension is embedded through general principles of law, human rights protections, and data privacy regulations. These elements play a pivotal role in balancing the effectiveness of AML measures with the protection of fundamental rights. Meanwhile, in international law, particularly in the field of AML, ethical principles are enshrined in the United Nations Convention against Corruption, notably in Articles 8, 12, and 14 [8]. These provisions promote integrity, transparency, and responsible financial conduct across both public and private sectors.

An example of this ethical approach is the FATF's financial inclusion policy [9], which seeks to prevent the exclusion of vulnerable populations from access to financial services, thereby promoting fairness and social justice.

Internal corporate compliance procedures [10, p. 85] also serve as ethical safeguards, helping ensure responsible business conduct and providing protection against criminal liability. Moreover, legal provisions that offer mitigation or exemption from liability in cases of voluntary cooperation with law enforcement reflect a model of ethically grounded preventive responsibility.

Professional ethics occupy a special place in the AML sphere – particularly for financial monitoring specialists, who must not only operate within the law but also uphold high standards of integrity, avoiding conflicts of interest, unjustified suspicion, and discriminatory practices.

Conclusion. Money laundering practices are becoming increasingly complex and technologically advanced. Their implementation is often made possible through the direct involvement or tacit approval of unscrupulous business actors. This evolving threat necessitates the continuous enhancement of AML measures. However, strengthening control mechanisms inevitably gives rise to ethical challenges, such as the risk of human rights violations, overreach of supervisory powers, and the erosion of boundaries between lawful oversight and unwarranted intrusion into private life.

Therefore, combating money laundering – as a central element of safeguarding the financial system – requires comprehensive attention to the ethical dimension. Only through the integration of ethical principles into AML regulatory frameworks, coupled with sustained public education on the moral unacceptability of money laundering, can these efforts achieve effectiveness, legitimacy, and resilience against misuse.

In this context, in-depth interdisciplinary research is urgently needed to explore a strategic question of contemporary financial governance: How can money laundering be effectively countered without crossing the boundaries of ethical acceptability?

References

1. International standards on combating money laundering and the financing of terrorism & proliferation. The FATF Recommendations. FATF. Updated February 2023. URL: <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf> (2025, Mai, 03).
2. Simmel, G. Philosophie des Geldes. Fünfte, unveränderte Auflage. Munchen Und Leipzig 1930 Verlag Von Duncker & Humblot s. 585.

3. The Cash Connection: Organized Crime, Financial Institutions, and Money Laundering (1984). President's Commission on Organized Crime. 1984. URL: <https://www.ojp.gov/pdffiles1/Digitization/166517NCJRS.pdf> (2025, April, 16).

4. Proceeds of Crime Bill. Publication of Draft Clauses Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty March 2001. URL: <https://assets.publishing.service.gov.uk/media/5a7c2d0ced915d76e2ebb930/5066.pdf> (2025, April, 17).

5. Botschaft über die Änderung des Schweizerischen Strafgesetzbuches (Gesetzgebung über Geldwäscherei und mangelnde Sorgfalt bei Geldgeschäften) vom 12. Juni 1989. Der Schweizerische Bundesrat. S. 1061–1100 URL: <https://www.amtsdruckschriften.bar.admin.ch/viewOrigDoc/10051119.pdf?ID=10051119> [in Germany]. (2025, April, 15).

6. United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances. 1988. United Nations. URL: https://www.unodc.org/pdf/convention_1988_en.pdf (2025, April, 14).

7. Halliday, T., Levi, M. and Reuter, P. 2020. Why do transnational legal orders persist? The curious case of money-laundering controls. In: Shaffer, G. and Aaronson, E. eds. Transnational Legal Ordering of Criminal Justice. Cambridge Studies in Law and Society Cambridge : Cambridge University Press, pp. 51–83. URL: <https://www.cambridge.org/core/books/transnational-legal-ordering-of-criminal-justice/why-do-transnational-legal-orders-persist/2329573275245EDD6ACAB4E238C6CA15> (2025, April, 14).

8. United Nations Convention against corruption United Nations, New York, 2004 URL: https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf (2025, Mai, 08).

9. FATF (2013–2017), Anti-money laundering and terrorist financing measures and financial inclusion – With a supplement on customer due diligence, FATF. URL: <https://www.fatf-gafi.org/content/dam/fatf-gafi/images/guidance/Updated-2017-FATF-2013-Guidance.pdf>. (2025, Mai, 07).

10. Bülte, J. Grundlagen der Geldwäschestrafbbarkeit und Geldwäsche-compliance für Notare. Monatsschrift für die gesamte notarielle Praxis Heft 3 / 2019. S. 75–85. URL: https://www.wiso-net.de/toc_list/NOTA/2019/NOTA__%3A2019%3A3/Heft%2B3%2B%252F%2B2019/NOTA#NOTA__nv.notar.2019.h0003.b0002 (2025, Mai, 08).