

# ANTI-MONEY LAUNDERING IN THE EU – THE ADOPTION OF NEW RULES

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**Abstract:** Europe started the fight against money laundering in 1990. Since then, European rules in this matter have been constantly adjusted, with the latest changes taking place in 2024, to counter this phenomenon, which has escalated in recent decades. The fight is difficult because new technologies and the liberalization of capital flows globally are being exploited by financial criminals. On the other hand, the compliance costs of European entities, especially banks, to align with the rules in force substantially exceed the sums of money recovered by the authorities. Moreover, money laundering is a difficult phenomenon to quantify because in the EU states there are no relevant statistical data on the dynamics of this phenomenon.

**Key words:** anti-money laundering (AML), public policies, EU, compliance costs

## 1. Introduction

The phenomenon of combating money laundering and the financing of terrorism is proving increasingly difficult to counter today, globally, despite all the regulatory efforts of recent years. The first European Anti-Money Laundering Directive was adopted in 1990 to prevent the misuse of the financial system for the purpose of money laundering. This stipulated that obliged entities must apply customer due diligence requirements when entering a business relationship, namely: identify and verify the identity of customers, monitor transactions and report suspicious transactions. Since then, EU legislation has been constantly revised to limit new risks related to money laundering and terrorist financing ([www.finance.ec.europa.eu](http://www.finance.ec.europa.eu)).

EU policies in the area of combating money laundering and terrorist financing are difficult to develop due to the significant gaps existing in the legislative framework of each member state. Moreover, since 2005, the European Commission has identified the lack of relevant and comparable statistical data from member states as a major obstacle in the process of qualitative evaluation of its policies in the field of financial crime. In fact, the first Eurostat publication, which contains details on the measurement of money laundering at the European level, was published only in 2010, being the final result of a

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pioneering activity because no other international organization had, until that moment, achieved a large-scale work on the phenomenon of money laundering (Tavares, Thomas, Roudaut, 2010).

In recent decades, the phenomenon of money laundering has escalated and become a topic of interest at the level of the European Union, which intensified the fight against money laundering and terrorist financing through the 4<sup>th</sup> Directive no. 2015/849/EU and the 5<sup>th</sup> Directive no. 2018/843/EU *on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing*. Moreover, accounting professionals along with other entities and professionals (notaries public, lawyers, certified assessors, tax consultants) are called to become an important part of this complex process of combating money laundering and terrorist financing (Lapteş, 2020).

Contrary to regulatory efforts at the EU level, the phenomenon of money laundering, which makes the financial system vulnerable, is proving difficult to counter. The specialists of the European Court of Auditors signalled, in 2021, the fact that, in reality, supervision in the field of combating money laundering and terrorist financing is limited, only at the national level, without a sufficient control framework at the EU level. (European Court of Auditors, 2021).

Moreover, at the international level, it has been concluded that this phenomenon affecting the international financial system is difficult to control, primarily due to the lack of data. It also requires greater transparency of information, targeting the real owners of companies, in an attempt to combat the misuse of companies to launder the proceeds of financial crime (Savona, Riccardi, et. al., 2017).

Therefore, in April 2024, the European Parliament adopted new EU anti-money laundering rules to strengthen the existing EU toolkit ([www.europarl.europa.eu](http://www.europarl.europa.eu)).

## **2. Research Methodology**

The fundamental objective of this study is to analyse the phenomenon of money laundering at the level of the European Union, in order to shed light on the limits of European policies in this area.

In order to achieve this objective, fundamental research was carried out, by studying the specialized literature and the reports published by the authorities in the field of combating money laundering.

Through this study, answers will be formulated to questions of the form:

- What are the main challenges faced by credit institutions in the EU, obliged by European directives to participate actively, on the front line, in the fight against money laundering and terrorist financing?
- What is the success rate of the European effort to combat money laundering?
- What are the latest measures adopted at the EU level and seen as a necessity in the near future to reduce the phenomenon of money laundering?

## **3. Research Results**

Although, in the last three decades, EU officials have intensified their concerns related

to the fight against money laundering and terrorist financing, through the periodic review of the legislative framework in this field, the reality shows that these rules are difficult to implement by credit institutions, which have the greatest exposure within this phenomenon.

After 2015, with the implementation of the 4<sup>th</sup> Directive no. 2015/849/EU, which introduced stricter requirements, most banks (including 90% of large banks) in the EU were fined significant sums of money for failing to comply with anti-money laundering regulations (Premti, Jafarinejad, Balani, 2021).

The multitude of financial scandals in the banking sector, triggered in recent years, in several EU countries (Cyprus, Denmark, Estonia, Latvia, Malta, etc.), involving billions of dollars laundered through accounts at a single bank, clearly demonstrate major deficiencies in combating money laundering at EU level. Addressing money laundering in the EU became even more urgent in 2018, when the US Treasury Department identified money laundering through ABLV Bank in Latvia (Kirschenbaum, Véron, 2018).

Despite the trillions of dollars, which have been allocated in the last 30 years in the fight against money laundering, the response received by the authorities demonstrates the failure of the policies, based on the model of "compliance with rules based on standards", in the absence of specific and measurable prevention objectives and reducing money laundering (Pol, 2020).

In an article published in 2020, H. Koster, analysing cases of money laundering through credit institutions in the EU, identified the following deficiencies (Koster, 2020):

- the ineffectiveness or lack of compliance with the legal requirements for systems and controls aimed at money laundering or terrorist financing, also generated by the fact that, in many of the analysed credit institutions, the compliance departments do not have sufficient staff, which led to difficulties in establishing the real beneficiary behind the customers;
- governance failures in the area of combating money laundering, also generated by the fact that, in most cases, the internal reporting of AML risks at the management level was not adequately carried out;
- some of the analysed credit institutions have implemented an aggressive business model for attracting customers and processing transactions, based on an intentionally limited verification of customers;
- neglect of anti-money laundering policies at group level.

Moreover, as Ronald F. Pol points out, the European effort to combat money laundering is "almost completely ineffective", given that: the authorities recover insignificant amounts, only 0.05% of the illicit funds, the costs of compliance with the rules in force exceed the illegal amounts recovered by more than a hundred times, and banks, taxpayers and citizens are penalized more than criminal companies. In the EU, the fight against money laundering generates €144 billion in compliance costs for companies to help authorities seize up to €1.2 billion of the more than €110 billion generated annually by financial criminals (Pol, 2020).

In recent years, both the scale and the means of money laundering have increased. The liberalization of international capital flows, the single market, technological progress and competition for international payments have created new challenges for banks and

supervisors. Unfortunately, identified cases of money laundering continue to represent an insignificant percentage of the 2%-5% of global GDP (1.7 - 4 trillion euros) estimated to be laundered annually by financial criminals (Centre for European Policy Studies, 2021).

Therefore, in an attempt to streamline the fight against money laundering, in April 2024, the European Parliament adopted new EU anti-money laundering rules ([www.europarl.europa.eu](http://www.europarl.europa.eu)).

In June 2024, a new European AML legislative package was published in the Official Journal of the EU, which brings together ([www.onpcsb.ro](http://www.onpcsb.ro)):

- the sixth EU Directive on combating money laundering (AML);
- the EU regulation on the single regulatory framework;
- the Anti-Money Laundering Authority (AMLA) regulation.

The main implications of the new European AML legislative package refer to:

- greater transparency and immediate access to new, national and interconnected registers at EU level, on the beneficial owners and sources of relevant information, which will be accessed by competent authorities and supervisory bodies, journalists and civil society organizations;
- new obligations that will fall to football clubs and agents starting in 2029;
- increased attention to the very rich people (with a total wealth worth at least 50,000,000 euros, less their main residence) and the maximum limit of 10,000 euros for cash payments made within the EU;
- a new EU Authority (AMLA), which will supervise the entities with the highest risks in the area of money laundering and terrorist financing, based in Frankfurt ([www.europarl.europa.eu](http://www.europarl.europa.eu)).

As shown by the results of a complex research, completed in 2017, regarding the evaluation of the risk of money laundering in Europe, an in-depth analysis of the ownership structure of European companies is required in the near future for a better understanding of the factors that underpin cross-border ownership links and to identify anomalies in beneficial ownership systems (Savona, Riccardi, et. al., 2017).

Standard corporate databases and the information they contain vary widely across Europe. Some contain detailed information on the directors, shareholders, accounts and taxes of the company, others are not accessible to the general public. Furthermore, the ability to search for information differs between EU member states. Also, all existing databases on the dynamics of money laundering are compiled from information submitted by listed companies, often without verification of their veracity. Therefore, the implementation of beneficial ownership identification requirements is slow and uneven across the EU (Centre for European Policy Studies, 2021).

The phenomenon of money laundering at the EU level is difficult to control and counter due to fragmented interventions and different practices at the level of the member states.

There are real difficulties in carrying out comparative analyses at the level of member states as a result of the differences related to the information disclosure requirements from one national authority to another. There are significant differences at the level of the member states, including some related to the disclosure and the amount of fines

that the entities obliged to comply with the AML requirements receive. There are member states where AML fines have been anonymised, in other countries they have not been published at all (Denmark, Germany, Spain). Italy and Germany set very low fines for breaching the AML framework, and France is in the middle range (Kirschenbaum, Véron, 2018).

Moreover, as Paul M. Gilmour showed, in the year 2023, the authorities' efforts to combat money laundering are based, on the one hand, on legal definitions and rigid notions, and on the other hand, on erroneous ideals that fail to address effectively the problem of money laundering (Gilmour, 2023).

Perhaps, the new European Anti-Money Laundering Authority (AMLA), which was established this year, will represent an important step forward in the fight against money laundering at the EU level, primarily by harmonizing policies, practices and the way of communication of AML information in the EU space.

#### **4. Conclusions**

Although, in the last three decades, EU officials have intensified their concerns related to the fight against money laundering and terrorist financing, through the periodic review of the regulatory framework, the reality shows that this phenomenon is complex and very difficult to counter.

It draws attention to the lack of efficiency of the public policies approved by EU officials in identifying cases of money laundering and, above all, to the symbolic recovery by the authorities of “only 0.05% of the illicit funds obtained by financial criminals” (Pol, 2020).

On the other hand, in the EU, the fight against money laundering generates significant compliance costs for companies, which reduce financial performance, especially in the banking sector, to support the authorities to confiscate amounts a hundred times smaller. Financial institutions, which occupy the front line in the fight against money laundering, are affected by this phenomenon on two levels: on the one hand, by increasing the costs of compliance, on the other hand, by possible fines with high values, if they lack or have weak compliance with the AML rules in force.

Perhaps, the latest European AML legislative package, approved this year by officials, will further alleviate the deficiencies that have been identified by several specialists in the process of combating money laundering at the level of the EU member states.

Moreover, the establishment in 2024 of the European Anti-Money Laundering Authority (AMLA), requested by experts in recent years, may make the fight against money laundering at the EU level more efficient, first of all by harmonizing policies and the way of disclosing AML information in the EU space.

Also, the provision through the new European AML directive of increased transparency and immediate access to new, national and interconnected registers at the EU level, regarding the real beneficiaries will contribute to the consolidation of relevant statistical databases in the coming period, which will support the improvement process of EU policies on money laundering and terrorist financing.

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