

CRIME OF MONEY LAUNDERING IN QATARI LAW: DEFINITION AND ELEMENTS: A COMPARATIVE STUDY

Sami Hamdan AL-Rawashdeh, Qatar University

ABSTRACT

This study deals with defining the crime of money laundering and its elements in accordance with the new Qatari Anti-Money Laundering and Terrorism Financing Act No. (20) of 2019. It revealed that the Qatari lawmaker adopted an expanded definition of the crime of money laundering, as it listed many forms of the acts that constitute the material element of this crime. The lawmaker also stipulated that the perpetrator knows with certainty that the money subject to laundering emanates from illegal sources. The Qatari lawmaker did not specify the predicate offense exclusively. The predicate crime includes every act that constitutes a felony or misdemeanor according to Qatari law, from which money is generated, whether committed inside or outside the State of Qatar. Upon proving that the money is the proceeds of a crime, it is not required that the person has been convicted of committing the predicate offense. Punishing the persons who commit the predicate offense does not prevent them from being punished for the crime of money laundering. If the criminal lawsuit has been filed in relation to the predicate offense, then the court hearing the money laundering lawsuit must not decide upon until a final judgment is issued in the predicate offense, because the rule is that the judgment that settles a preliminary issue has authority before the criminal court even if the unity of litigants is not available, in accordance with Article 168 of the Qatari Criminal Procedure Law.

Keywords: Money-Laundering Crime, Predicate Offense, Proceeds of Crime, Qatar's Anti-Money Laundering Act.

INTRODUCTION

Money laundering is one of the most serious crimes committed through financial systems around the world. It is difficult to indicate when this type of criminal activity began, but it is certain that organized criminal gangs in the United States, Italy, and Russia committed this crime in the twentieth century. These gangs have committed the crime of money laundering among other criminal activities such as drug trafficking, smuggling, prostitution, gambling, extortion, and other crimes that achieve a large financial return. The traditional method used by criminal gangs to "cleanse" or "launder" "dirty" money is to set up legitimate business and financial ventures and to mix the money derived from criminal activities with that which is acquired from new businesses (Serio, 2004).

With the growing phenomenon of globalization, the explosion of the technological revolution in the field of communication and information, the development of the various devices used by financial and banking institutions, the expansion of trade exchange, the high demand for foreign capital and the facilitation of investment in it, the ease of transfer of capital

across countries, including the money of criminal organizations, has increased. This has carried within it the growing movement of organized crime, of which money laundering crimes are the most prominent and most dangerous of these crimes, and the so-called underground economy has emerged. Many persons and criminal organizations have taken advantage of this economic climate to engage in illegal economic activities. Adding to the danger of the matter is the use of financial revenues obtained from illegal sources in other criminal activities, the most dangerous of which is terrorism (Yeh, 2020).

The phenomenon of money laundering emerged as a political, economic, and criminal problem that attracted the attention of the international community, after it became obvious the extent of the dangers that threaten it as a result of using money obtained from crime to commit more crimes after disguising its criminal sources and giving them legitimacy (Newland, 2008). The importance of combating money laundering emerged after it became obvious the extent to which this crime is linked to corruption and organized crime and its harmful impact on the economy, and the consequent destabilization of commercial markets, the depletion of national income, the negative impact on the volume of savings and investment, the depreciation of the national currency and the high rates of inflation. All these can result in negative social consequences such as high unemployment rates, a decline in the standard of living, and a disturbance of social security. In the political sphere, these crimes can lead to control of the political system and corruption of government structures (Al-Rashdan, 2012).

In view of the risks involved in the crime of money laundering, these countries were quick to criminalize it, according to special legislation issued for this purpose (Agarwal and Agarwal, 2004). The International Financial Action Task Force, which was established in 1989, has had great credit in setting the necessary policies and rules to combat money laundering. The Qatari lawmaker, like other laws, has taken an interest in confronting this criminal phenomenon, so he issued Law No. (28) of 2002 regarding combating money laundering, amended by Decree Act No. (21) of 2003, which was repealed under the Act on Combating Money Laundering and the Financing of Terrorism No. (4) of 2010. This law, in turn, was repealed and replaced by Act No. (20) of 2019 regarding combating money laundering and terrorist financing. This research deals with efforts to combat this phenomenon as stipulated in the Anti-Money Laundering and Terrorist Financing Act No. 20 of 2019, within the framework of the criminalization rules only.

Definition of Money Laundering

Jurisprudence defines money laundering as *"a process or activity undertaken to conceal the illicit source of money"* (Savona, 1997). Another aspect of jurisprudence defined it as *"a method whereby proceeds of crime are transformed into assets whose sources are difficult to trace at a later time"* (Reuter and Truman, 2004). Another jurist defined it as *"a process aimed at concealing the original source of proceeds of criminal activities"* (Hopton, 2006). Another defined it as *"a process aimed at concealing the existence of illicit financial assets, or the illegal use of income and disguising it in a manner that appears legitimate"* (Newland, 2008).

Many legal systems have attempted to establish a clear and specific definition of money laundering activities. For example, the US Money Laundering Control Act of 1986 states that a money laundering crime consists of two components: financial operations, and specific illegal activities. Based on this law, money laundering is an illegal practice aimed at concealing the identity, source, and destination of the illicit gains and profits (Madinger, 2006). In the United

Kingdom, specifically the Proceeds of Crime Act of 2002, it defined money laundering in a way that is not limited to traditional laundering carried out by a third party for the benefit of the perpetrator, but also includes the possession of crime proceeds by the perpetrators (Sproat, 2007). Accordingly, money laundering, in the United Kingdom, includes property, whatever its form or nature, including money, property, goods and other money that constitute the proceeds of crime, either in whole or in part. Australian law has taken a different approach in defining money laundering activities. Australia's Anti-Money Laundering and Counter Terrorism Finance Act 2006 has adopted the same concept in the (the Criminal Code Act) 1995. Accordingly, money laundering is a criminal activity that occurs when money or properties that constitute proceeds of crime are used, or when there is a risk that these money and property will become the instrument of crime (Australian Criminal Code Act, 1995). Based on the above, we note that the definition of money laundering reveals a set of goals that the perpetrators of this type of criminal activity seek to achieve, namely (Mwenda, 2006):

1. Concealing the true identity of the perpetrators.
2. Concealing and disguising the true owner of money and property.
3. The perpetrators' distancing themselves from money and property to be laundered.

Money laundering is a process aimed at legalizing money obtained from an illicit source, or that involves concealing the original source of those moneys so that they appear to have been obtained from a legitimate source using various methods with which it is not possible to identify the source of those funds. It is the conversion or transfer of money with the knowledge that they are proceeds of a crime with the intention of concealing or disguising the illegal source of that money, or helping any person who committed this crime to escape from the legal consequences of his actions. The money laundering operation aims to achieve two main objectives, the first of which is to conceal the source crime, which is the crime whose proceeds were the subject of the laundering process. The other goal is to enable criminals to enjoy the proceeds of the source crime, whether by consuming or investing them within the economic system (Al-Qadi, 2011).

The money laundering process in most cases passes through a system that comprises a group of operations that differ from each other, with the aim of concealing the source of the criminal funds and giving them a legal appearance. According to the traditional analysis of money laundering, laundering goes through three major phases: the placement phase, the layering phase, and finally, the integration phase. The first stage is achieved by depositing money obtained from the original crime in banks and within the financial system. This takes multiple forms, including: cash deposits in bank accounts or the purchase of shares or documentary credits, and as for the second stage, it takes place in diverse ways to conceal the source of money and give them a legitimate bid that takes them away from their criminal source, and puts difficulties in tracing them to find out their source. This occurs through complex illegal financial transactions using sophisticated technical means and modern electronic technologies, and conducting bank transfers through different banks in different countries, which makes it difficult to track these moneys and trace their source, especially if they are transferred to banks that follow the rules of banking secrecy in which there is no control over foreign exchange (Savona, 1997).

The last stage is achieved by introducing money or cash into the normal economic and financial cycle, and this is the last stage of money laundering that aims to legalize the laundered

money, by providing an indisputable justification for the origin of the money, so that in the end, they appear as natural returns arising from legitimate operations. This stage is one of the most difficult stages of money laundering because the money is integrated into the economy in such a way that is difficult to separate the money from its original illegal source, and the perpetrators can reuse and invest it in other activities, whether they are legal or illegal (Soliman, 2017).

Part of the jurisprudence extends the stages in which the money laundering process takes place to include other stages, given that money laundering operations appear to be more complex than was previously believed (Broome, 2005). In addition to the three stages mentioned earlier, there are three other stages that are crucial to describing the entire money laundering process. Accordingly, the money laundering process passes through six phases: Creation, Consolidation, Placement, Layering, Integration, and finally Realization. In the first stage, the money laundering process consists of criminal activity (such as drug trafficking) that produces dirty money and earnings. In the second stage, the perpetrators work on linking the illegal proceeds obtained from illegal sources in such a way that these perpetrators are free from arrest and criminal prosecution. As for the third stage, which is depositing, the dirty money is placed in the financial system, for example, by opening bank accounts. The fourth stage, which is disguising and obscuring, involves the use of illicit money from their sources in the operations of buying and selling investment tools. Moving on to the consolidation stage, the perpetrators intend to enter the money that was laundered into the financial system again as legitimate income. The final stage, the realization phase, has a constant and unchanging result: illicit money has permeated the financial system and begins to grow and blossom (Srivastava et al., 2020).

However, this traditional analysis of the money laundering system does not in all cases reflect what is happening in practice, as the methods of money laundering vary. Money laundering is not a rigid process that can only be achieved through certain stages that do not deviate from it. It may require a complex set of operations and transferring money to conceal their true source, especially if the money to be laundered is huge. The methods of money laundering cannot be counted, because the perpetrators use all the tools permitted by business law and international trade law in addition to financing and fulfillment methods. Although the means of money laundering are very complex, which makes them difficult to detect, this does not prevent them from being detected and knowing the perpetrators (Sorour, 2013).

In any case, this comprehensive analysis of the money laundering process has three results:

1. The description of the money laundering process is more extensive as it accommodates all stages of the process from the emergence of the original activity or the original crime (the source or the parent crime) until the last stage where the perpetrator obtains the gains and profits of the proceeds of the crime.
2. Giving more importance to describing the money laundering process, so that the issue is not limited to the money laundering process itself, but includes the original crime that was a source of dirty money.
3. A more realistic depiction of this crime by showing the true nature of the money laundering process, and the money that has been laundered, whether it relates to the origin, source, or process, because the criminal activity itself is attached to money and property even after the end of the money laundering process.

Consequently, money laundering operations are closely related to organized criminal activity, and it includes complex stages, which are difficult to track. The Qatari lawmaker did not stop at a specific perception of the stages of money laundering, as it stipulated that the crime occurs with any behavior that involves transferring, remitting, acquiring, retaining, using,

disposing of, moving or possessing money by the perpetrator in order to conceal or disguise the illegal source of these funds. It also involves disguising its true nature, its source or location, or helping any person who committed this crime to evade the legal consequences of his actions. This behavior is not required to reach its final goal, for all the stages of behavior that aim to achieve this goal represent continuous criminal activity (Sorour, 2013).

Elements of the Crime of Money Laundering

The occurrence of the money laundering crime stipulated in Act No. 20 of 2019 regarding combating money laundering and the financing of terrorism requires the existence of a presumed condition prior to money laundering, which is the predicate crime of the source of the laundered money, a material element represented in the material actions that must be carried out for the occurrence of the crime, and a moral element.

Presumptive Condition: Money Obtained from a Predicate Offense

There is an assumed condition that must be met before the occurrence of the money laundering crime, which is the existence of money obtained from the predicate offense. This presumed condition comprises two elements: money, and that these moneys are the result of a crime that generates money of the type of felony or misdemeanor. As long as the lawmaker requires for the crime of money laundering to occur and that the money subject to laundering come from an unlawful source, it must be specified the meaning of money that is the subject of the crime of laundering. In the first article of the law, the lawmaker defined money broadly to include assets or property of whatever kind, material or immaterial, tangible or intangible, movable or immovable, including financial assets and economic resources such as oil and other natural resources and all rights related to them (Laird and Hungerford-Welch, 2020).

The UK Proceeds of Crime Act 2002 uses the term "property" in place of money (Law, 2002). Under this law, criminal property is the benefit that accrues to a person as a result of criminal behavior or what represents this benefit, whether in whole or in part, and directly or indirectly. The fifth paragraph of Article 340 stipulates that a person will benefit from the behavior if he obtains ownership as a result of this behavior or its association with it (Gentle et al., 2019).

Legislation differs in defining the predicate offense, and adopts two main approaches: The first approach: The exclusive identification method, which is a method based on counting the crimes that alone are suitable for being a source of money subject to laundering. This approach is based on the fact that the predicate offense is of a special nature that requires its identification with complete clarity. This approach is adopted by the Lebanese Anti-Money Laundering and Terrorism Financing Act No. (44) of 2015. It also adopted by the Egyptian Law No. 80 of 2002 before it was amended by the law No. 36 of 2014. Note that some legislation initially stipulated the criminalization of money laundering whose source is drug trafficking, in application of the provisions of the Vienna Convention of 1988. Legislation has been expanding in defining predicate offenses in line with the European Directive issued in 2001 that expanded the meaning of the predicate crime in order to include all serious crimes such as tax evasion crimes.

The second approach: It is the method of absoluteness in identifying and avoiding limiting the predicate crimes whose proceeds are subject to money laundering. Among the laws that adopted this approach were Saudi law, Jordanian law. As for Qatari law, the repealed law of 2010 adopted the first curriculum, and the new law for 2019 adopted the second approach. Article 1 of the previous Qatari Anti-Money Laundering and Terrorism Financing Law No. 4 of 2010 defined the predicate offense as: one of the crimes stipulated in the first paragraph of Article Two. The predicate crime includes all the felonies, the crimes stipulated in the international agreements signed and ratified by the state, and a range of other crimes, which are: fraud, illicit trafficking in narcotic drugs and psychotropic substances, fraud, forgery, extortion, robbery, theft, trafficking in stolen goods, illicit trafficking in other goods, counterfeiting and piracy of products, smuggling and sexual exploitation, environmental crimes, tax evasion, selling and trading in antiquities, market manipulation and commercial concealment.

However, the Qatari lawmaker in the 2019 Act has adopted a different position, defining in the first article of this law the predicate crime. It states that:

“Every act constitutes a felony or misdemeanor, according to the legislation in force in the state, whether committed inside or outside the country, whenever money is generated from it, and it is punishable in both countries” (Wingard and Pascual, 2019).

In light of the foregoing, it is evident that the Qatari lawmaker’s position regarding the new law differs from his position on the repealed law. The new law did not exclusively specify predicate offenses, contrary to the previous law. Under the new law, the lawmaker is satisfied that the source crime is a felony or misdemeanor according to the legislation in force in the country that generates money from it. The Qatari lawmaker excludes contraventions from the source’s crimes, even if they generate money. While the Qatari lawmaker did not require in the previous law to obtain a conviction for committing the predicate offense, in order to prove the unlawful source of the proceeds of the crime, the lawmaker adopted in the new law a formula that is somewhat different from that which was mentioned in the previous law, but which is of great importance and significance. As it was stated in the second article of the new law that

“When it is proven that the money are the proceeds of a crime, it is not required that the person has been convicted of committing a predicate offense.”

The difference appears clear between the previous and the current texts. While the lawmaker does not require in the previous law to obtain a conviction for committing the predicate offense to prove the illicit source of money and proceeds of crime, the lawmaker requires in the current law to prove that the money subject to laundering comes from an illegal source.

If the predicate crime has been committed abroad, it is stipulated that it is punishable under both Qatari and foreign laws. Once double criminality is achieved, the difference in the two laws does not matter in the legal description by which the crime is described. It is equal to the lawmaker that the perpetrator of the crime is a Qatari or a foreigner. It is equal for the Qatari judiciary to have jurisdiction over the predicate offense or not. The predicate offense may also have been committed before or after the anti-money laundering law came into effect, because this crime is not a pillar of the money laundering crime, but rather it is just a precondition that is supposed to be in place before its occurrence. However, this does not preclude the requirement

that the act constituting the predicate offense be punished under Qatar's penal code. The fourth paragraph of Article 340 of the UK Proceeds of Crime Act 2002, explicitly states that it does not matter that the predicate crime was committed before or after the promulgation of the law.

Since it is required to prove that the source of the laundered money comes from illegal sources, the search has arisen whether it is required to issue a ruling for that or not. No legal problem would arise if the predicate offense had not been filed for any criminal proceedings. In this case, it is inevitable that the court hearing the criminal lawsuit relating to the crime of money laundering will decide on the legality of this money in terms of its source. A problem does not arise at all if there is a final ruling issued by the competent court to convict in the predicate offense, and in this case the competent court looking into the crime of money laundering shall issue a conviction as long as it is established that the money subject of laundering has come from an illegal source (Al-Mahi, 2009).

But the difficulty arises if there is a criminal case whose subject matter the predicate offense is pending before another court, meaning that the court that hears the crime of money laundering is different from the court that hears the original crime. This has a very important legal effect, as the court that hears the crime of money laundering must stop looking into it until a judgment is issued by the court examining the source crime, because the decision on the money laundering crime depends on the determination of the original crime or the source. This is considered a direct application of Article 168 of the Qatari Criminal Procedure Law No. 23 of 2004, which states:

“If the judgment in the criminal case depends on the outcome of the adjudication of another criminal case, the first must be suspended until the other is decided upon.”

The suspension is obligatory. The judgment issued in the other criminal case whose subject matter is the predicate offense shall be considered as conclusive.

In this sense, the Egyptian Court of Cassation ruled: that the Egyptian lawmaker in the anti-money laundering law did not indicate the method of proving the crime as the source of the money, and that last crime was considered a presumptive condition in the money laundering crime, and it is closely linked with it and even revolves with it in existence and in absence, so there is no room for discussion about money laundering crime unless there is money obtained from an unlawful source and it constitutes a crime. Therefore, if there is no criminal case filed in connection with the source's crime, the court looking into the money laundering crime must first establish certainty of the source's crime because it is a presumptive condition in the money laundering crime. If the criminal lawsuit has been filed in relation to the source's crime, then the court hearing the money laundering lawsuit must wait until a final judgment is issued in it because the rule is that the judgment that settles a preliminary issue has authority before the criminal court even if the litigants unity is not available and in this case according to the text of Article 222 of the Criminal Procedure Law, the money laundering lawsuit should be halted, and the court will wait until the source's crime is ruled with a final judgment because saying the standard of sufficiency of evidence that the source's crime has occurred once the legal model is available is an uncontrolled standard and is inconsistent with the principle of criminal legality and leads to results unacceptable and contradictory in court rulings (Court of Cassation, 2018).

Based on the foregoing, we must differentiate between two assumptions:

The first is that there should not be a criminal case filed in connection with the source crime (predicate offense), in which case the court that examines the crime of money laundering must first establish certainty evidence of the source crime because it is considered a presumptive condition in the money laundering crime. Second, if the criminal lawsuit has been filed in connection with the source crime, then the court hearing the money laundering lawsuit must lie in wait until a final judgment is issued. Although there is no correlation between the perpetrator's responsibility for the predicate crime and its occurrence, the existence of a criminal case for the predicate offense requires waiting for a decision on the extent of its occurrence, regardless of the extent of the defendant's responsibility for the money laundering crime. All that is required is the occurrence of the original crime from which the laundered money was obtained, regardless of the responsibility of the perpetrator. Committing a crime from a material point of view does not necessarily require the accused to be convicted. If the court that examines the predicate crime decides the innocence of the accused due to insufficient evidence or the existence of an impediment to criminal liability with proof of the occurrence of the crime in material terms, this does not preclude making its money subject to the crime of money laundering. The same ruling shall apply in the event that an order is issued by the Public Prosecution that there is no reason to file a case due to the lack of knowledge of the perpetrator or insufficient evidence.

The money laundering crime is considered an independent crime from the predicate offense, and the independence between the two crimes is objective and procedural at the same time. Objective independence means that the source's crime is independent from the money laundering crime and vice versa. As for procedural independence, it means that the criminal case for each of them has its own course. The perpetrators of the money laundering crime may be prosecuted regardless of the failure to file a criminal case for the predicate offense or its lapse for any of the reasons, including the statute of limitations. The Qatari judiciary is also competent to look into the crime of money laundering even if it is not specialized in the source crime because it occurred outside the country. This independence remains in place unless there is a link between them, in which case, the procedural rules of jurisdiction shall be applied in the case of engagement.

The Material Element of the Money Laundering Crime

Article 2 of the Anti-Money Laundering and Terrorism Financing Act of 2019 defines the material element in this crime as every behavior or activity that involves acquiring, possessing, using, transferring or remitting money to conceal or disguise the true nature of the money, its source, location, method of disposal, movement or ownership, or the rights related to it, if these funds were obtained from a crime of the type of felony or misdemeanor that generates money. The material element in this crime lies in dealing in money obtained from illegal sources. The illegality of this crime is clearly obvious in the special criminal intent to which we will refer shortly. That is why criminal behavior must be in itself and according to the circumstances in which it was committed, revealing the special intent in the crime so that criminalization is not based on mere intentions (Al-Bashir, 2004).

Based on the foregoing, the money laundering crime is realized in several forms of acts that are based on the person's contact with the money obtained from the predicate offense. These forms are not determined except in the light of their objective, which consists of the special intention. Transferring money, acquiring it, or possessing it is not sufficient in and of itself to

establish the material element in the crime, unless this behavior expresses the purpose of which the special intent in the crime is formed. Examples include forging a check and appropriating its value, depositing its value in several banks, making withdrawals and deposits, linking deposits and transfers to private accounts, exchanging them for national and foreign currencies, issuing checks to others, and buying investment fund documents. Forms of the material element in this crime include: the acquisition of money, possession of it, disposing of it, management, preservation, exchange, deposit, investment, transfer, remittance, and manipulation of its value. In the context of talking about the material element of the money laundering crime, it is necessary to distinguish between it and the crime of concealment of money obtained from a crime, which is punishable under Article 367 of the Penal Code of Qatar No. 11 of 2004. The crime of concealment falls on money obtained from any crime according to the methodology adopted by the Qatari lawmaker, as for the money laundering crime, it falls on money resulting from a felony or misdemeanor for which money is generated. For the crime of concealment to exist, it is sufficient for the perpetrator to know with certainty that the money is obtained from any crime, that is, it is sufficient for the general criminal intent to establish the crime of concealment. As for the money laundering crime, there must be a special criminal intent in it, which is the most important distinction between the money laundering crime and the crime of concealment. It is not conceivable, as jurisprudence and judiciary agree on, of the occurrence of the crime of concealment except by someone other than the perpetrator of the crime that was the source of the money in question. As for the crime of laundering, it may be committed by the same person who committed the original crime, and it may be committed by someone else.

There are many forms of the material element in this crime, as stated in Article 2 of the 2019 Act, and the lawmaker did not require that all of these forms be committed together. These results in an important consequence, which is that committing criminal behavior in any of the forms mentioned in the aforementioned article is sufficient to achieve the material element in the crime, provided that the moral element is achieved, including the general criminal intent and the special intent.

Also, this crime may occur in a sequential manner whenever it is committed in several forms of criminal behavior specified by the law. The consecutive crime occurs through the multiplicity of criminal behavior that alone is suitable for the occurrence of the crime and its succession, provided that there is no significant interval between the behavior and the other. It also stipulates the unity of the criminal enterprise, and the unity of the right or interest attacked. Based on the foregoing, the money laundering crime is one consecutive crime if the perpetrator has committed several forms of criminal behavior, such as acquiring money, possessing it, transferring it, remitting it... etc., and these acts were committed in a sequential manner that does not separate the act from the other with a time interval. This multiplicity occurred in implementation of a single criminal project represented in the unity of the criminal purpose or the special criminal intent. This multiplicity was focused on certain money obtained from a crime of the type of felonies and misdemeanors that generate money. If the conditions of sequencing referred to above are fulfilled, the crime does not multiply due to the multiplicity of behavior, and we will be dealing with only one money laundering crime.

The law punishes money laundering crime whether the predicate offense takes place inside or outside Qatar. The lawmaker stipulated that the predicate offense be punishable in the Qatari law and the law of the country in which it was committed according to the definition provided by the Qatari lawmaker for the predicate crime in Article 1 of the new Act. The law did

not require that if the crime was committed by a Qatari, he should return to Qatar. Article 18 of the Qatari Penal Code stipulated that the Qatari return to Qatar in the event that he commits a felony and misdemeanor crime abroad. However, Article 1 of the Anti-Money Laundering Law did not amend the procedural text in Article 19 of the Qatari Penal Code, which states: "A criminal case shall not be instituted against a person who committed a crime abroad, if it is established that the foreign courts issued a final judgment of his innocence, or his conviction, and he has fulfilled the punishment, or the punishment has dismissed, or the case has lapsed. However, if the acquittal ruling was issued in connection with one of the crimes stipulated in Clause (3) of Article (16) of this Law, based on the fact that the law of the country in which it was committed is not punishable, it is permissible to file a criminal case on it before the courts of the State of Qatar.

As for the criminal consequence: It is the material consequence of the behavior. The occurrence of the crime does not require the achievement of the goal that the offender aims to conceal, which is the concealment of money or the disguise of its nature, source or location ... etc. All this is not considered as a criminal consequence required by law. The end represents the essence of the private intent of the crime, but aims to achieve a result outside the material element of the crime. This crime is not considered a crime of harm, but rather a crime that threatens security and stability, as it encourages the commission of serious crimes such as terrorism, drug trafficking and other crimes that lead to corruption of the economic system with polluted money.

The Moral Element in the Crime of Money Laundering

This crime is intentional. Like any other crime, it requires the availability of general criminal intent, which is based on the two elements of knowledge and will. The first element does not raise any problem, unlike the second element, which is knowledge, because knowledge must focus on two crimes: the predicate offense and the money laundering crime. The perpetrator must be aware of the unlawful source of money that is the subject of criminal conduct in the money laundering crime. That is, he must know that this money was obtained from illegal sources, so that crime does not occur if this knowledge is not available. This knowledge must be certain in principle, it may not be assumed on the basis that the perpetrator must know the criminal source of the money, and it is not required that the perpetrator knows the details of the source crime or where it occurred or the perpetrator of it (Jabr, 2008).

Although the Qatari law, whether new or revoked, requires the availability of general criminal intent, there is a fundamental difference between them that deserves to be pointed out, as the previous law equates between certain knowledge and assumption. The first article of the Money Laundering and Combating Terrorism Law of 2010 (repealed) stipulates that the perpetrator knows or should have known or suspects that such property is proceeds of a crime. As for the new law of 2019, it stipulated that knowledge be certain according to Article 2 of it.

The Egyptian Court of Cassation ruled that: Since that was the case, and the criminal intent in the crime to which the appellant was convicted requires that the perpetrator be aware at the time of committing the crime with certainty of the availability of its elements, including the criminal intent, and if the accused disputes the availability of this intent, the court must have sufficient revelation. It is also established for him to judge that the crime of money laundering requires, in addition to the general criminal intent, a special intent, which is the intention to

conceal the money or to disguise its nature, its source, location, or the owner of the right to it, or to change its reality in the manner mentioned above, which is what the judgment must explicitly invoke and show evidence on its availability whenever the culprit was disputed (Court of Cassation, 2013).

The crime also requires, in addition to the aforementioned, the existence of a special intent through which the perpetrator aims to achieve a specific goal. The lawmaker requires the availability of the special intent for the crime of money laundering, whether in the previous or current law. The perpetrator must aim to achieve one of the following goals: Conceal or disguise the illegal source of these moneys. It is an end relating to money obtained from the crime; Helping anyone who has committed this crime to evade legal consequences for their actions. It is a goal related to the person who committed the crime; Hide or disguise the true nature, source or location of the money (Ghoneim, 2017).

The availability of one of these ends is an objective matter that the judge extracts from the evidence presented to him within the limits of his discretionary authority. Article 5 of the new law stipulates:

“The knowledge and will necessary to prove the crime of money laundering or the crime of financing terrorism may be inferred from objective factual circumstances.”

It is the special intent in the crime that highlights the illegality. It also distinguishes the crime of money laundering from the crime of concealing things obtained from a crime, as mentioned earlier. Needless to say, the special intent must be contemporaneous with the material element of the crime (Asi, 2019).

CONCLUSION

Money laundering is one of the arts of using and employing legitimate means to attain an unlawful goal, which is often to legalize illegal proceeds derived from criminal activities. This phenomenon aims to sever the link between these properties and their sources, and to ensure that they are used in a way that is safe from seizure or confiscation. The Qatari lawmaker adopted a broad definition of the crime of money laundering, and did not stop at a specific perception of the stages in which the money laundering process passes. The lawmaker also stipulated that the perpetrator was aware that the money subject to laundering came from illegal sources. The Qatari lawmaker has not specifically identified the predicate offenses whose proceeds are subject to the crime of money laundering. The predicate crime includes every act that constitutes a felony or misdemeanor according to Qatari law, for which money is generated, whether committed inside or outside the State of Qatar. The new law requires proof that the money subject to laundering comes from illegal sources. The text of Article 168 of the Qatari Procedures Law must be applied if the court hearing the money laundering crime is different from the court hearing the predicate offense.

REFERENCES

- Agarwal, J.D., & Agarwal, A. (2004). International money laundering in the banking sector. *Finance India*, 18(2), 767-772.
- Al-Bashir, S.A.M. (2019). The crime of money laundering: Its concept and elements according to the anti-money laundering law of 2004-A comparative study. *Journal of Sharia and Law*, 33(2), 23-27.
- Al-Mahi, E. (2009). Proof of money laundering crime. *Muhakama Journal*, 6(1), 33-46.
- Al-Qadi, A. (2011). Money laundering crime: Nature and historical development. *Al-Menbar Al-Qanuni Magazine*, 1(1), 111-123.
- Al-Rashdan, M. (2012). *An evaluation of the AUSTRAC enforcement mechanism in regards to non-compliance with reporting obligations*. PHD thesis, University Wollongong, Australia.
- Asi, A.I. (2019). *Legislative and regulatory obstacles in combating money laundering crime in Palestine*. Master Thesis, Birzeit University, Palestine.
- Australian Criminal Code Act. (1995). *Chapter 10, Division 400*.
- Broome, J. (2005). Anti-money laundering, international practice and policies. *Sweet and Maxwell*.
- Court of Cassation. (2013). *Criminal-Appeal No. 12808 of the Judicial Year 82 dated 05/12/2013 technical office 64 page no. 603*.
- Court of Cassation. (2018). *Criminal-Appeal No. 5191 of the 87 judicial year on 14/04/2018*.
- Gentle, S., Spinks, C., & Omer, M. (2019). Proceeds of crime act 2002: Update. *Compliance Officer Bulletin*, 170(2), 1-42.
- Ghoneim, S.M. (2017). Objective provisions for the crime of money laundering in Palestinian legislation: A comparative analytical study. *The Generation of In-depth Legal Research Journal*, 18(1), 38-39.
- Hopton, D. (2006). *Money laundering: A concise guide for all business*. Ashgate.
- Jabr, S.A.A. (2008). The crime of money laundering: A comparative critical study. *Journal of the University Islamic College*, 2(3), 14-15.
- Laird, L., & Hungerford-Welch, P. (2020). Proceeds of crime: National crime agency, re Queen's Bench division (divisional court): Davis LJ and McGowan J: EWHC (Admin). *Criminal Law Review*, 268(2), 739-743.
- Law. (2002). *Proceeds of Crime Act*. Article 340.
- Madinger, J. (2006). Money laundering: A guide for criminal investigators. *Taylor and Francis*, 2(1), 20-25.
- Mwenda, K.K. (2006). *Combating financial crime: The legal, regulatory and institutional frameworks*.
- Newland, L.S. (2008). Money laundering. *American Criminal Law Review*, 45(2), 741-750.
- Reuter, P., & Truman, E.M. (2004). *Chasing dirty money*. Institute for International Economics.
- Savona, E.U. (1997). *Responding to money laundering: International perspectives*. Harwood Academic.
- Serio, J.D. (2004). Fueling global crime: The mechanics of money laundering. *International Review of Law, Computers & Technology*, 18(3), 435-441.
- Soliman, A.A. (2017). Criminal policy against money laundering. *Contemporary Egypt Magazine*, 108(526), 135-227.
- Sorour, F. (2013). *Al-Waseet in the penal code/special section*. Dar Al-Nahda Al-Arabiya, Cairo, Egypt.
- Sproat, P.A. (2007). An evaluation of the UK's anti-money laundering and asset recovery regime. *Crime Law Social Change*, 47(3), 169-175.
- Srivastava, A., Simpson, M., & Powell, R. (2020). Money laundering and financial crime. *Compliance Officer Bulletin*, 178(1), 1-27.
- Wingard, J., & Pascual, M. (2019). *Wildlife crimes in anti-money laundering laws*. Retrieved from https://www.legal-atlas.com/uploads/2/6/8/4/26849604/following_the_money_feb_11_pdf
- Yeh, S. (2020). An international treaty to fight money laundering. *Journal of International Banking Law and Regulation*, 35(5), 190-207.