

# MONEY LAUNDERING - COMPARATIVE ANALYSIS OF TAX EVASION AS A PREDICATE CRIME IN THE EU MEMBER STATES

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**Aljinović, Nevena; Bartulović, Marijana**

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FACULTY OF ECONOMICS IN OSIJEK - CROATIA  
POSTGRADUATE DOCTORAL STUDY PROGRAM IN MANAGEMENT  
HOCHSCHULE PFORZHEIM UNIVERSITY - GERMANY

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## VORWORT

Es ist uns ein Vergnügen, das Konferenzband "Interdisziplinäre Managementforschung XIX / Interdisciplinary Management Research XIX" vorstellen zu können. Ein Buch aus dieser Reihe ist zum ersten Mal 2005 erschienen, als Resultat der Zusammenarbeit zwischen der Wirtschaftsfakultät in Osijek, Kroatien und der Hochschule Pforzheim, Deutschland, und insbesondere durch das Magisterstudium des Managements. Die Zusammenarbeit der zwei genannten Partnerinstitutionen ist unter anderem durch jährliche wissenschaftliche Symposien gekennzeichnet, auf welchen interessante Themen aus verschiedenen Bereichen der Wirtschaft und des Managements vorgestellt und folglich in einem Band veröffentlicht werden. Jedes Jahr ziehen die wissenschaftlichen Symposien Akademiker anderer kroatischer, sowie ausländischer Universitäten, einschließlich Österreich, Deutschland, Ungarn, Polen, Rumänien, Slowenien, Montenegro, Bosnien und Herzegowina, Serbien, Indien, Irland, Tschechien, Island, Italien, Litauen, Kosovo, Türkei, Belgien, Schweiz, USA, Slowakei, Mazedonien, und Großbritannien an, die ihren wissenschaftlichen und professionellen Beitrag zur Diskussion über zeitgenössische Fragen aus dem Bereich des Managements leisten. Die Aktualität der behandelten Fragen, der internationale Charakter im Hinblick auf Themen und Autoren, die höchsten Standards der Forschungsmethodologie sowie die Kontinuität dieser Konferenzreihe wurden auch von der internationalen akademischen Gemeinde erkannt, weswegen sie auch in internationalen Datenbanken, wie Clarivate Web of Science, EconLit, Thomson ISI, RePEc, EconPapers und Socionet, zu finden ist.

Die neueste Ausgabe von "Interdisziplinäre Managementforschung XIX / Interdisciplinary Management Research XIX" umfasst 70 Arbeitengeschrieben von 148 Autoren aus 7 Ländern. Der Erfolg früherer Ausgaben ging über die Grenzen der Länder hinaus, deren Autoren schon traditionell Teil der Reihe waren. Jedes der Autoren leistete einen bedeutenden Beitrag zu diesem fachübergreifenden Managementforum.

Als Herausgeber dieses Bandes hoffe Ich, dass diese Reihe auch weiterhin Akademiker und Professionelle dazu bewegen wird, in Forschung und Beruf die höchsten Standards zu beanspruchen, und dass es weiterhin als Ansporn zu weiteren Formen von Zusammenarbeit unter Teilnehmern dieses Projektes dienen wird.

Aleksandar Erceg, Ph.D., Faculty of Economics and Business in Osijek

## FOREWORD

We are pleased to introduce the book “Interdisciplinary Management Research XVIII/ Interdisziplinäre Managementforschung XIX” to you. The first volume appeared in 2005 because of cooperation between the Faculty of Economics in Osijek (Croatia) and Pforzheim University of Applied Sciences (Germany), mainly through the postgraduate program “Management”. The cooperation between these partnering institutions has been nurtured, amongst others, through annual scientific colloquiums at which exciting topics in various fields of economics and management have been presented and later published in the proceedings. Over the years, the scientific colloquiums have drawn the attention of academic scholars from other Croatian universities, as well as from other countries, including Austria, Australia, Germany, Hungary, Poland, Romania, Slovenia, Montenegro, Bosnia and Herzegovina, Serbia, India, Ireland, Czech Republic, Italy, Lithuania, Kosovo, Turkey, Belgium, Switzerland, USA, Slovakia, Macedonia, Cyprus, and the United Kingdom each contributing to the academic and professional discussion about contemporary management issues. The actuality and importance of the issues discussed, the international character of the book in terms of authors and topics, the highest standards of research methodology, and continuity in publishing have been recognized by the international academic community, resulting in the book of proceedings being indexed in world-known databases such as Clariavate Web of Science, EconLit, Thomson ISI, RePEc, EconPapers, and Socionet.

The latest edition, i.e., Interdisciplinary Management Research XIX / Interdisziplinäre Managementforschung XIX, encompasses 70 papers written by 148 authors from 7 countries. The success of former editions has echoed beyond the traditionally participative countries and authors.

As an editor, I hope this book will continue to encourage academic scholars and professionals to pursue excellence in their work and research and provide an incentive for developing various forms of cooperation among all involved in this project.

Aleksandar Erceg, Ph.D., Faculty of Economics and Business in Osijek

# MONEY LAUNDERING – COMPARATIVE ANALYSIS OF TAX EVASION AS A PREDICATE CRIME IN THE EU MEMBER STATES

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## **Abstract**

*Tax evasion and money laundering are two global phenomena whose individual characteristics are intertwined, striving for the same goal and causing far-reaching adverse consequences on economic stability. Some jurisdictions explicitly norm tax evasion as a predicate crime offense of money laundering, while others norm that the predicate criminal offense is any behavior that results in illegally acquired financial gain. Considering that tax evasion is not necessarily characterized by the illegal acquisition of hidden profits, some legislations are skeptical regarding the positioning of tax evasion as a predicate crime offense of money laundering. As a result of the above, the understanding of tax evasion as a de facto predicate crime of money laundering may not follow certain jurisdictions, such as the USA, which uses a narrower definition of money laundering than the one used by the FATF. Still, individual EU Member States' laws sufficiently broadly regulate money laundering and predicate crimes that (almost) any tax evasion can be prosecuted as a predicate crime of money laundering. This paper uses an interdisciplinary approach to analyze money laundering and tax evasion, and the legal and economic aspects of the issue are presented. This paper aims to argue some recent trends in money laundering and compare the predicate crime of tax evasion in EU Member States to reveal the differences and their potential impact on the final result of processing money laundering. The paper contributes to a comparative, cross-*

country analysis of regulation related to money laundering and tax evasion in the EU Member States, emphasizing the analysis of penalties for these criminal offenses. Understanding differences in national regulations regarding tax evasion and money laundering is crucial for making further steps to combat them and harmonize regulations.

**Keywords:** money laundering, tax evasion, predicate crimes

**JEL Classification:** H26, K14, K34, G28

## 1. INTRODUCTION

Money laundering is a phenomenon that has intrigued and occupied the international community in recent decades and which could be briefly defined as a special way of concealing the natural origin of illegally acquired money and creating the appearance of its legal acquisition. Several specificities characterize it. First, money laundering is a process, not an individual act, the complexity of which, *among other things*, depends on the type of criminal offense and the degree of complexity of the illegal organizational structure (Cindori & Zakarija, 2017: 16). Second, money laundering differs from other criminal offenses because its essential feature is the existence of a predicate offense. Unlike most other criminal acts, money laundering is always of an accessory nature, i.e., related to the existence of a predicate criminal act. However, although the predicate criminal offense is a condition and element for creating the criminal offense of money laundering, the predicate criminal offense and the criminal offense of money laundering represent two separate criminal offenses (Ariyani & Junaidi, 2022: 114). Thus, in the Netherlands, obtaining or possessing property benefits from criminal activity is a particularly privileged criminal offense concerning the primary form of money laundering (Art. 420. bis. 1 par. 1. WvSr). In Italy, the so-called self-laundering (ital. *autoriciclaggio*) is also a special criminal offense, but under the condition that it was committed “in economic, financial, entrepreneurial or speculative activities in order to hinder the identification of their criminal origin concretely” (Art. 648-ter.1, Codice penale). The Croatian legislature does not explicitly regulate self-laundering. However, judicial practice and legal theory agree that money laundering carried out by the predicate criminal offense of the same perpetrator does not constitute a subsequent unpunished offense due to the apparent merger with the predicate criminal offense concerning the violation of various legal assets (Glavić, 2021: 512; Derenčinović, 2002:



127–128; Novoselec, 2001: 673). According to Croatian judicial practice, the primary form of money laundering requires that money originating from criminal activity is (further) used and not just deposited in a bank. Therefore, according to judicial practice, money laundering is completed by investing money in various businesses (Novoselec & Roksandić Vidlička, 2010: 716). *Acontrario*, the Spanish legislator, even for possessing illicit proceeds triggers the offense of money laundering (Maugeri, 2018: 97).

As a result of the above, differences in the legislation of individual countries regarding the legal regulation of money laundering and predicate criminal offenses are evident. In the Eurojust Report, as the most relevant challenge in the context of money laundering, “differences in national legislation concerning the requirements for identifying the predicate criminal offense for the conviction for money laundering” were stated (Eurojust, 2022: 2). Also, it was pointed out that for some countries, the success of the investigation of money laundering is previously conditioned by the investigation and determination of the predicate crime. Thus, the issue of determining the predicate criminal offense determining the source of illegally acquired money is highlighted.

Through this paper, an attempt is made to contribute to the existing literature and to determine and compare the legal regulation of the criminal offense of money laundering and tax evasion as a predicate criminal offense in EU Member States. The paper aims to determine the link between these two criminal acts, which, despite differences like the origin of the property benefit (money), aim to achieve the same goal: integrating dirty money into the legitimate financial system.

The paper is structured as follows. After the first introductory part, a literature review emphasizing trends and challenges in money laundering and tax evasion is presented. The concept of predicate crimes in money laundering is briefly described in the third chapter, while methodology and data are presented in Chapter 4. The results of the conducted research are presented in Chapter 5, while the paper’s last chapter brings concluding remarks.

## 2. LITERATURE REVIEW

Money laundering is a form of economic crime that knows no borders and represents “a serious threat to the integrity of the European Union’s economy

and financial system and the security of its citizens” (Eurojust, 2022: 2; Shaikh et al., 2021). Nazar et al. (2023) state that “money laundering has devastating effects on countries, government revenue, foreign investment, economic development, political and peace conditions, bank liquidity, interest rate volatility, and exchange rate volatility” and that despite all the efforts of the national, international and global stakeholders in the context of suppressing this phenomenon, a decrease in money laundering activities is not observed. Although the extent of money laundering is difficult to determine, The United Nations Office on Drugs and Crime (UNODC) estimates that between 2% and 5% of global GDP is laundered annually, which amounts to between €715 billion and €1.87 trillion. Nazar et al. (2023) believe this amount is a little lower and estimate that the amount of laundered money annually amounts to 1.23% of the total world GDP.

**Figure 1.** Increase in money laundering cases



**Source:** Table made according to Eurojust data, 2022: 6

It is interesting to point out that Eurojust (2022) states that, based on the analysis of 2,870 cases of money laundering in the period from January 1, 2016, to December 31, 2021, a constant increase in money laundering cases can be observed, which makes this topic current and challenging for all stakeholders involved in the anti-money laundering system. Also, 12-14% of all Eurojust registered cases involve money laundering. Figure 1 shows the trend in money laundering cases registered with Eurojust in the observation period (2016-2021). As one of the spread indicators of this problem among the EU Member States,

several special purpose transactions related to money laundering published by Offices for the Prevention of Money Laundering can also be used. Cotoc et al. (2021: 16) point out that based on the analysis of the Suspicious Transaction Report (STR) in the period 2018-2019, an increase in the number of cases with suspected money laundering (and financing of terrorism) is also observed.

On the other hand, tax evasion is also a phenomenon that negatively affects the economy of every democratic state because it is directly reflected in the reduction of the state budget. Tax evasion results from defects and inappropriateness of imperfect fiscal legislation, defective enforcement methods, failure of the legislator, and lack of adequate and well-organized financial control (Bistriceanu & Badea, 2010: 292). Preventing and combating tax evasion requires knowing the causes that favor it, which due to their heterogeneous nature, can have an economic, social, moral, or political character (Comândaru, Stănescu & Păduraru, 2018). In this respect, consistent financial control, resulting in (strict) civil and criminal liability, can contribute to the successful prevention and fight against tax evasion. Rossel et al. (2020: 41) examined whether “the implementation of tax crimes as a predicate crime for money laundering in the 4th AMLD is a useful tool for the fight against tax evasion,” and according to their results, “introducing tax crimes as predicate crimes for money laundering is an important step in the fight against tax evasion.”

Hence, it is clear that money laundering, as well as tax evasion, represent a significant and continuous challenge for all stakeholders involved in the process of combating it. Since the criminal offense of money laundering must involve illegally acquired money whose origin must be concealed, thus the predicate criminal offenses for money laundering represent a specific challenge to which policy regulators have not yet found common grounds and answers.

### 3. CONCEPT OF PREDICATE CRIMINAL OFFENSE

A key concept in the fight against money laundering is predicate crimes. A predicate criminal offense is any criminal offense by which an (illegal) financial benefit is obtained, which is later (apparently) legalized through money laundering (Palijaš, Hržina & Biluš, 2017: 28), i.e., it is “the basic criminal offense that led to the proceeds of a criminal offense that is the subject of a charge of money laundering” (Bell, 2003: 137).

According to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), initially, the only predicate crime was drug trafficking. However, in the mid-1990s, the definition of the predicate offense expanded, resulting in a significant expansion of the scope of Money Laundering Prevention measures. It was not until 2012 that the Financial Action Task Force (FATF) recommended the inclusion of tax offenses as predicate offenses for money laundering. For many years tax evasion has been excluded from the legal provisions dealing with money laundering, and it took a long time before tax crimes were included in the catalog of money laundering predicate offenses (Spreutels, Grijseels, & Unit, 2000: 2). There are several reasons for that. Firstly, it is often pointed out that tax evasion is not a “serious” crime since it falls under the category of white-collar crime, and the damage caused is incomparably minor than the damage caused by drug trafficking or terrorism. This point of view is wrong since many countries’ laws consider tax evasion a crime. The second argument starts from the fact that the behavior from which the concealed profit originates is legitimate, which means that the profit obtained through tax evasion is also legitimate. Unpaid tax on realized but concealed gain does not make the profit illegitimate. However, this statement does not consider that the criminal offense is not the behavior that creates profit but the act of concealing that profit that should be paid in the form of taxes (Oliver, 2002: 57). The third argument is that standardizing tax evasion as a predicate crime would put too much pressure on professional advisers or bank employees, making them “vulnerable” to prosecution for (negligently) assisting in money laundering (Rossel et al., 2020: 10).

Tax evasion, corrupt crimes, and drug abuse are the biggest challenge for money laundering. The primary feature of tax evasion is a direct violation of legal provisions (Cindori & Zakarija, 2017: 15; Šimović, Rogić Lugarić, & Cindori, 2007: 594). Two interdependent and connected components characterize it. Firstly, there must be an intention not to declare income or to provide incorrect or incomplete information about income. Secondly, the aim is to (fully or partially) avoid paying taxes. In most cases, tax evasion will be combined with other criminal acts that are used to achieve the ultimate goal, which is the acquisition of illegal property benefits (and non-payment of taxes to the state) (Glavina & Dragičević Prtenjača, 2018: 195).

Tax evasion techniques can be as simple as understating service revenue or overstating tax deductions or as complex as creating layered tax haven entities

(Kemsley, Kemsley & Morgan 2020: 592). However, there is no unified definition of tax evasion, so Matković (2013: 162) defines it as “illegal avoidance of tax liability, which includes illegal actions or omissions that conceal or avoid tax liability for not paying tax or paying less tax than the law prescribes.” Mladineo (2008: 47) states that it is an “intentional, planned and deliberate non-declaration of income” legally taxable. For Klier (2007: 786), tax evasion (defrauding) is the conscious failure to pay taxes. Torres Serpel & Shachmurove (2005: 59) see it as the elimination or diminution of a tax amount, achieved through “fraudulent activities or with the omission and violation of legal provisions.” According to OECD (2015: 85), tax fraud “involves the direct violation of tax law and may feature the deliberate concealment of the true state of a taxpayer’s affairs to reduce tax liability.”

Although the incorporation of tax offenses as a predicate offense was a “key area of dispute,” the fact that tax offenses represent a problem at the global level and in many jurisdictions constitute a legislative gap in money laundering that incorporation was necessary (Rossel et al. 2021: 240). However, despite the above, tax evasion as a predicate crime of money laundering is not universally accepted. For example, tax evasion in some countries is only a misdemeanor, while in others, it is a criminal offense (only) when it exceeds a certain amount of money (Unger, 2017: 29; Brun et al., 2022: 16) or is associated with severe fraud.

## 4. METHODOLOGY AND DATA

To analyze the criminalization of money laundering and tax evasion in EU Member States and differences in prescribed penalties, we formed a database of regulations related to tax crime and money laundering in all EU Member States. Data sources required for analysis are secondary data sources consisting of legal materials or regulations. To obtain regulations on tax evasion and money laundering, we used many resources and looked for the laws related to these criminal offenses in the official gazette of each country included in our research.

Focus was on criminal codes, tax laws, and anti-money laundering laws. After gathering relevant laws, we performed its content qualitative analysis. We analyzed and extracted the data related to criminal offenses of money laundering and tax evasion, as well as prescribed penalties for these offenses. We performed a systematic analysis to get a deductive conclusion on the issue and

achieve the determined objectives of the research, i.e., to determine differences in tax evasion and money laundering regulation among EU Member States as well as differences in penalties for these offenses.

## 5. RESULTS AND DISCUSSION

Certain overlaps between tax evasion and money laundering have long been recognized. Namely, both crimes often rely on similar techniques. Corporate shell companies and fraudulent accounting journal entries are often the tools for both offenses (Kemsley, Kemsley & Morgan 2020: 590). By comparing the definitions of tax evasion and money laundering, it is clear that these are criminal offenses whose basic form can only be committed with intent, and the essential determinant of both is the concealment of realized profits (Storm, 2013: 1440).

Undoubtedly, tax evasion in all EU Member States is regulated as a criminal offense through the provisions of the criminal code or criminal and administrative offenses in special legislation. Most legislation considers it a predicate criminal offense of money laundering. However, let us analyze the legal definitions of money laundering in different countries. Tax evasion is often excluded from the money laundering definitions (Unger, 2009: 2). Efforts done at the international level through FATF recommendations that included tax evasion as a predicate crime for money laundering in 2012, as well as incorporating tax crimes as predicates crimes for money laundering in the 4th Anti Money Laundering Directive in 2015, have not offered a unique approach in the fight against money laundering. More precisely, each Member State can choose how to incorporate these principles into national regulations, and as expected, differences in these regulations appeared (Rossel et al., 2022: 782). Analyzing and understanding these differences is essential for further efforts in combating money laundering since it is likely that criminals will use the weaknesses of specific countries and go where they perceive sanctions for money laundering to be the weakest.

The table below shows the normative regulation and prescribed sanctions for criminal offenses of money laundering and tax evasion in all EU Member States.

**Table 1. Criminalization of money laundering and tax evasion in EU Member States**

No.	State	Money laundering	Tax evasion
1.	Austria	❖ Criminal Code (§ 165 StGB)  • imprisonment from 6 months to 5 years (from 1 up to 10 years for aggravated money laundering)	❖ Fiscal Offences Act (§ 33 FinStrG)  • fine of up to the twofold amount of the evaded taxes, • imprisonment for up to 4 years
2.	Belgium	❖ Code Penal (Art. 505)  • imprisonment from 15 days to 5 years and/or • a fine of €26 to €100.000 • imprisonment of 8 days to 3 years and/or a fine of €26 to €50.000 for attempting the offenses	❖ Belgian Income Tax Code  • imprisonment from 8 days to 2 years and/or • a fine from €250 to €500.000
3.	Bulgaria	❖ Criminal Code (Art. 253)  • fines from 3.000 to 5.000 BGN <sup>1</sup> • imprisonment from 1 to 6 years (up to 15 years imprisonment and fine of up to 200.000 BGN for aggravated money laundering)	❖ Criminal Code (Art. 255)  • fine up to 5.000 BGN (or up to 10.000 BGN in case of 255a) • deprivation of rights • confiscation of the property • imprisonment from 1 to 6 years (for large amounts, 3 to 8 year imprisonment)
4.	Croatia	❖ Criminal Code (Art. 265)  • imprisonment from 6 months to 5 years (up to 8 years for aggravated money laundering)	❖ Criminal Code (Art. 256)  • imprisonment from 6 months to 5 years (up to 10 years for aggravated money laundering)
5.	Cyprus	❖ Prevention and Suppression of Money Laundering and Terrorist Financing Laws (Section 4)  • 14 years imprisonment and a fine of up to €500.000 or both in the case of knowledge • five years imprisonment or a fine of €50.000 or both in case of ought to have known	❖ Assessment and Collection of Taxes Law - Sections 49(1), 51(a) ❖ Value-Added Tax Laws (Section 46)  • fine up to €17.000 and/or imprisonment up to 5 years • monetary penalty up to €5.000 and/or imprisonment up to 2 years • fine up to 50.000 CYP and/or imprisonment up to 3 years • administrative penalties: €100-€200 • penalties and surcharges and another 5%

<sup>1</sup> Although EU Member State Bulgaria has not introduced the euro, the official currency is the lev (1 BGN = 0.51 EUR).

6.	Czech Republic	<ul style="list-style-type: none"> <li>❖ Criminal Code (Art. 216) <ul style="list-style-type: none"> <li>• imprisonment up to 4 years (up to 8 years or confiscation of property for aggravated money laundering),</li> <li>• pecuniary penalty,</li> <li>• prohibition of activity,</li> <li>• or to confiscate items or other asset values</li> <li>• for negligence, imprisonment up to 3 years, prohibition of activity, or confiscation of items or other asset values (Art. 217)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>❖ Criminal code (Art. 241)</li> <li>Tax code <ul style="list-style-type: none"> <li>• imprisonment up to 3 years (up to 8 years for aggravated forms)</li> <li>• fine</li> <li>• increase of tax base</li> </ul> </li> </ul>
7.	Denmark	<ul style="list-style-type: none"> <li>❖ Criminal Code (§ 290a) <ul style="list-style-type: none"> <li>• fine and</li> <li>• imprisonment of up to 1 year and six months (up to 8 years for aggravated money laundering)</li> </ul> </li> </ul>	<p>The Danish Tax Agency has authority in all criminal cases involving gross negligence and deliberate tax evasion (only when the amount of evasion does not exceed: DKK 250.000<sup>2</sup> for violations of tax legislation, the VAT Act, the Labour Market Contributions Act, and the Payroll Tax Act DKK 100.000 in violations of excise duty laws).</p> <ul style="list-style-type: none"> <li>• fines from DKK 100.000 to 250.000</li> <li>• imprisonment</li> </ul>
8.	Estonia	<ul style="list-style-type: none"> <li>❖ Penal Code (§ 394) <ul style="list-style-type: none"> <li>• fine or</li> <li>• imprisonment up to 5 years (from 2 to 10 years for aggravated money laundering)</li> <li>• money laundering agreement: pecuniary punishment or imprisonment of up to 1 year</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>❖ Penal Code (§ 389 and § 390)</li> <li>❖ Taxation Act (§ 153) <ul style="list-style-type: none"> <li>• Misdemeanour: fine up to 300 fine units (up to €32.000 if committed by a legal person)</li> <li>• Criminal: fine or imprisonment up to 5 years (1 to 7 years if the tax evasion is large)</li> </ul> </li> </ul>
9.	Finland	<ul style="list-style-type: none"> <li>❖ Criminal Code - Chapter 32 Receiving and money laundering offenses, Section 6 and 7 (61/2003) <ul style="list-style-type: none"> <li>• fine or</li> <li>• imprisonment up to 2 years (from 4 months up to 6 years for aggravated money laundering)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>❖ Criminal Code - Chapter 29</li> <li>❖ Act on Assessment Procedure <ul style="list-style-type: none"> <li>• fine or</li> <li>• imprisonment up to 2 years (from 4 months up to 4 years for aggravated forms)</li> </ul> </li> </ul>

<sup>2</sup> Although EU Member State Denmark has not introduced the euro, the official currency is the Danish krone (1 DKK = 0.13 EUR).



10.	France	<ul style="list-style-type: none"> <li>❖ Penal Code (Art. 324-1 and 324-2)</li> <li>• fine up to €375.000 and</li> <li>• imprisonment of up to 5 years (up to 10 years and a fine of €750.000 for aggravated money laundering)</li> </ul>	<ul style="list-style-type: none"> <li>❖ Penal Code (Art. 313-1)</li> <li>❖ General Tax Code (Art. 1741)</li> <li>❖ General Tax Code (Art. 1728 and 1729)</li> <li>• Administrative: an additional tax charged from 10% to 80%</li> <li>• Criminal: fine up to € 375.000 and imprisonment up to 5 years (up to 7 years and fine up to €750.000 for aggravated form/ up to 10 years and a fine of € 1,000,000 when involved organized crime)</li> </ul>
11.	Germany	<ul style="list-style-type: none"> <li>❖ German Criminal Code (Section 261 StGB)</li> <li>• fine or</li> <li>• imprisonment up to 5 years (from 6 months to 10 years for aggravated money laundering).</li> </ul>	<ul style="list-style-type: none"> <li>❖ The Fiscal Code - Section 370(1)</li> <li>• fine or</li> <li>• imprisonment up to 5 years</li> </ul>
12.	Greece	<ul style="list-style-type: none"> <li>❖ Law 4557/2018 - Prevention and suppression of money laundering and terrorist financing and other provisions (Art. 2 and 39)</li> <li>• imprisonment up to 10 years and a pecuniary penalty of €20.000 to €1.000.000 (imprisonment of at least ten years and a pecuniary penalty of €50.000 to €2.000.000 for aggravated money laundering)</li> </ul>	<ul style="list-style-type: none"> <li>❖ Law 4174/2013 – Code of Tax Procedures</li> <li>❖ Law 4337/2015 - Measures to reduce tax evasion, immediate regulations and indirect taxation and other provisions</li> <li>• 2 to 5 years imprisonment for evading tax payments of amounts of €100.000 – €150.000</li> <li>• 5 to 20 years imprisonment for evading tax payments exceeding €150.000</li> </ul>
13.	Hungary	<ul style="list-style-type: none"> <li>❖ Criminal Code (§ 399)</li> <li>• imprisonment from 1 to 5 years (2 to 8 years if money laundering is committed on a commercial scale)</li> </ul>	<ul style="list-style-type: none"> <li>❖ Criminal Code (§ 396)</li> <li>❖ Act on the Rules of Taxation</li> <li>• imprisonment up to 3 years (1 to 5 years for aggravated forms)</li> </ul>
14.	Ireland	<ul style="list-style-type: none"> <li>❖ Money Laundering and terrorism financing Act – 2010, Sections 6 to 16</li> <li>• Summary conviction: fine not exceeding €5.000 or imprisonment up to 12 months (or both).</li> <li>• Conviction on indictment: fine and/or imprisonment for a term not exceeding 14 years.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Taxes Consolidation Act 1997, Section 1078</li> <li>• Summary conviction: Fine of €5.000 or imprisonment up to 12 months imprisonment or fines to (or both).</li> <li>• Conviction on indictment: fine not exceeding €126,970 and/or imprisonment up to 5 years.</li> </ul>
15.	Italy	<ul style="list-style-type: none"> <li>❖ Criminal Code (Art. 648 to 648-ter 1)</li> <li>• imprisonment from 2 to 8 years and a fine from €516 to €10.329 (from 4 to 12 years and a fine from €5.000 to €25.000 for aggravated money laundering)</li> </ul>	<p>Several normative acts:</p> <ul style="list-style-type: none"> <li>❖ D.P.R. October 26, 1972, n. 633 regarding VAT</li> <li>❖ D.P.R. 29 September 1973, n. 600 regarding the assessment of income taxes. For penalties D. Lgs. March 10, 2000, n. 74 (Criminal)</li> <li>❖ D. Lgs. 18 December 1987, n. 471 (administrative)</li> <li>• imprisonment from 1 to 6 years</li> </ul>

16.	Latvia	<ul style="list-style-type: none"> <li>❖ Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing (Section 5)</li> <li>• imprisonment up to 3 years or</li> <li>• temporary deprivation of liberty,</li> <li>• community service, or</li> <li>• a fine, with or without confiscation of property</li> </ul>	<ul style="list-style-type: none"> <li>❖ Criminal Law (Section 218)</li> <li>• imprisonment for up to 4 years, or</li> <li>• temporary deprivation of liberty, or</li> <li>• community service, or</li> <li>• a fine,</li> <li>• confiscation of property</li> <li>• deprivation of the right to engage in entrepreneurial activity types or employment for a term of not less than two years and not exceeding five years.</li> <li>• If committed by an organized group, up to 10 years imprisonment</li> </ul>
17.	Lithuania	<ul style="list-style-type: none"> <li>❖ Criminal Code (Art. 216)</li> <li>• imprisonment up to 7 years</li> </ul>	<ul style="list-style-type: none"> <li>❖ Criminal Code (Art. 219 to 221)</li> <li>❖ Administrative Offense Code (Art. 187)</li> <li>• up to 4 years imprisonment (up to 8 years for aggravated forms)</li> <li>• warning note or a fine from €60 to €140</li> </ul>
18.	Luxembourg	<ul style="list-style-type: none"> <li>❖ Criminal Code (Art. 506-1)</li> <li>• imprisonment of 1 to 5 years and/or</li> <li>• fine of €1.250 to €1.250.000 (15 to 20 years and/or a fine of €1.250 to €1.250.000, (for aggravated money laundering, Art. 506-5)</li> </ul>	<ul style="list-style-type: none"> <li>❖ Tax reform law of December 23, 2016</li> <li>• Administrative offense: fine from 10% to 50% of the evaded taxes.</li> <li>• Criminal offense of aggravated tax evasion: fine from €25.000 to 6 times the evaded amount of taxes and imprisonment from 1 month to 3 years.</li> </ul>
19.	Malta	<ul style="list-style-type: none"> <li>❖ Prevention of Money Laundering Act (Chapter 373 of the Laws of Malta) – offense</li> <li>❖ Criminal Code, Chapter 9</li> <li>• fine up to €2.330.000 and/or</li> <li>• imprisonment for up to 14 years (up to €2.50.000 and/or imprisonment up to 18 years for aggravated money laundering)</li> </ul>	<ul style="list-style-type: none"> <li>❖ Income Tax law</li> <li>• imprisonment,</li> <li>• various administrative fines</li> </ul>
20.	Netherlands	<ul style="list-style-type: none"> <li>❖ Penal Code (Art. 420 bis to Art. 420quater.1)</li> <li>• imprisonment up to 6 years or a fine of the fifth category</li> </ul>	<ul style="list-style-type: none"> <li>❖ General Tax Act (Sections 68 to 69a)</li> <li>• imprisonment from not more than six months (Section 68) to</li> <li>• imprisonment up to 4 years (Section 69), i.e., six years (Section 69a) or</li> <li>• money fines from the third to the fifth category</li> </ul>
21.	Poland	<ul style="list-style-type: none"> <li>❖ Penal Code (Art. 299)</li> <li>• imprisonment from 6 months to 8 years</li> </ul>	<ul style="list-style-type: none"> <li>❖ ACT of September 10, 1999. Fiscal Penal Code (Art. 53 §2)</li> <li>• fine (in daily rates)</li> <li>• restriction of liberty</li> <li>• imprisonment</li> <li>• forfeiture of items or material gains</li> <li>• prohibition to carry out certain business activities or to perform a particular profession</li> </ul>

22.	Portugal	<ul style="list-style-type: none"> <li>❖ Criminal Code - Art. 368-A (3)</li> <li>❖ Law No 25/2008, of June 5, transposes Directives 2005/60 and 2006/70</li> <li>• Administrative sanction: up to €2.500.000</li> <li>• Criminal sanctions: imprisonment up to 12 years</li> </ul>	<ul style="list-style-type: none"> <li>❖ Law 15/2001, of June 5 (Art. 87 to 105)</li> <li>• Administrative sanction: up to €165.000</li> <li>• Criminal sanctions: imprisonment up to 8 years or fines between 10 and 600 days</li> </ul>
23.	Romania	<ul style="list-style-type: none"> <li>❖ Law No. 656/2002 regarding the prevention and sanctioning of money laundering</li> <li>• imprisonment from 3 to 10 years</li> </ul>	<ul style="list-style-type: none"> <li>❖ Law No. 241/2005 for the prevention and the fight against tax evasion (Art. 8 and 9)</li> <li>• imprisonment from 3 to 10 years</li> </ul>
24.	Slovakia	<ul style="list-style-type: none"> <li>❖ Criminal Code (§ 233)</li> <li>• imprisonment from 2 to 5 years (12 to 20 years for aggravated money laundering)</li> </ul>	<ul style="list-style-type: none"> <li>❖ Criminal Code (§ 276 to 278a)</li> <li>• imprisonment from 1 to 5 years (possibly up to 12 years according to the gravity of the crime)</li> </ul>
25.	Slovenia	<ul style="list-style-type: none"> <li>❖ Criminal Code (Art. 245.)</li> <li>• imprisonment of up to 5 years (up to 10 years for aggravated money laundering)</li> </ul>	<ul style="list-style-type: none"> <li>❖ Criminal Code (Art. 249)</li> <li>❖ Tax Procedure Act (penalty provisions, Art. 394 - 402.b)</li> <li>• Administrative: fine from €250 to €150.000</li> <li>• Criminal: imprisonment from 1 to 8 years (3 to 12 years if committed by criminal organization)</li> </ul>
26.	Spain	<ul style="list-style-type: none"> <li>❖ Criminal Code (Art. 301)</li> <li>• imprisonment of 6 months to 6 years and</li> <li>• a fine from one to three times the value of the goods</li> <li>• special barring from exercise of his profession or industry for a term from one to three years, and</li> <li>• measure of temporary (may not exceed five years) or definitive closing of the establishment or premises</li> </ul>	<ul style="list-style-type: none"> <li>❖ Criminal Code (Art. 305 and 305)</li> <li>• imprisonment from 1 to 5 years and</li> <li>• a fine from one to six times the amount involved,</li> <li>• loss of the possibility to obtain public subsidies or aid and entitlement to tax or Social Security benefits or incentives for a period from three to six years</li> </ul>
27.	Sweden	<ul style="list-style-type: none"> <li>❖ Law (2014:307) On Penalties for Money Laundering Offences (§§ 3 to 7)</li> <li>• imprisonment of up to 2 years (6 months up to 6 years for aggravated money laundering)</li> </ul>	<ul style="list-style-type: none"> <li>❖ Tax Offences Act (1971:69) (§§ 2 to 4)</li> <li>• imprisonment of up to 2 years (6 months up to 6 years for the severe tax crime)</li> </ul>

**Source:** The table was made according to the data of the criminal and tax laws of the EU Member States and the data available on the page European Parliament - Member States capabilities in fighting tax crimes

Some countries such as Belgium, Finland, France, Italy, the Netherlands, Spain, and Sweden consider tax offenses a predicate money laundering offense, while in Denmark, Luxembourg, and Portugal, tax offenses are not considered severe offenses for money laundering. In Austria, only customs fraud and eva-

sion of import and export duties are considered a predicate crimes of money laundering, while in Germany, tax evasion is a predicate crime of money laundering if it is committed by a member of a criminal organization (Spreutels, Grijseels, & Unit, 2000: 11). For the Dutch, tax evasion is a criminal offense only when it is associated with severe fraud. Otherwise, it is considered a misdemeanor (Unger, 2009: 3). In Croatia, tax evasion is a criminal offense only if the objective condition of punishment is met, i.e., if the amount of tax evaded is greater than €2.654,46 and the crime was committed with the intention (direct or indirect) to avoid tax payment, either in whole or in part. For tax evasion as a misdemeanor, negligence is sufficient, i.e., a violation of due diligence (Matković, 2013: 162).

As can be seen from the table above, most EU Member States regulate tax evasion exclusively through tax laws. In contrast, in a smaller number of countries, this issue is regulated by criminal legislation. However, regardless of the differences in the legal regulation of tax evasion, it is undoubtedly a serious crime where the amount of the prescribed penalty coincides with the amount of concealed profit or the challenging circumstances of the commission of the crime (e.g., if the crime was committed as part of a criminal association, if it is a large-scale crime, etc.) (IEWG, 2020: 4). From the conducted analysis, it is clear that 37% of EU Member States prescribe the same punishment for tax evasion as for money laundering, which supports the conclusion that the same degree of social harm is recognized for both crimes. Finally, 55.6% of the legislative solutions favor a stricter punishment for money laundering, while 7.4% of countries prescribe a more stringent punishment for tax evasion.

Furthermore, differences among EU countries are noted when analyzing penalties for money laundering. Data show how prescribed prison sentences range between minimum fines and a maximum value of 20 years. For example, some of the highest imprisonments for money laundering are normed in Slovakia (even 20 years in cases of considerable benefits), Bulgaria (maximum imprisonment of 15 years), and Malta (maximum imprisonment of up to 14 years). On the other hand, the lowest minimum value was noted in a few countries (such as Cyprus, France, and Greece), which shows that some EU countries are not harmonized with EU regulations from 2018., according to which standardized EU minimum prison sentence for money laundering is four years (Rossel et al., 2020: 253). Most EU Member States have a minimum sentence below this value, meaning that further efforts in harmonizing laws and remov-

ing loopholes in the regulations of Member States should be made. Considering tax evasion and prescribed prison sentences, differences among observed countries were also noted. For example, the lowest imprisonment sentence is only a few days (for example, the case of Malta, France, and the Netherlands).

In contrast, the highest prison sentence is prescribed in Slovakia, with a maximum prison sentence of 12 years. Research results show that despite significant efforts that have been made to harmonize money laundering, legislative differences among EU Member States are (still) noticed. Differences exist in prescribed sanctions for criminal offenses, money laundering, and tax evasion. These differences enable criminals to move and operate in those countries with weaker regulations, and further harmonization of legislation is a severe challenge to all stakeholders involved in combating money laundering.

## 6. CONCLUSION

Criminal offenses of money laundering and tax evasion differ in the money origin. However, the success of both crimes depends on the ability to conceal the source of the origin of the money. Money laundering attempts to show the apparent legality of the illegal origin of money. At the same time, tax evasion focuses on providing incorrect information or not reporting income to avoid taxes. Hence, operationally quite different processes, money laundering, and tax evasion share the same sophisticated techniques of funds concealing (Spreutels, Grijseels, & Unit, 2000: 2). Tax evaders usually use money laundering methods. For example, illegal profits resulting from tax evasion can be deposited into the offender's bank account (money deposit phase). Also, tax evaders can use various transactions to conceal illegal profits, such as fake transactions and/or documents, to falsely present the income as a gift, inheritance, or other tax-free income (layering phase). However, tax evasion often lacks the third stage inherent in money laundering - the integration of income back into the legitimate economy - since successful tax evasion automatically integrates illegal tax savings into legal, financial flows without any further steps in money laundering. Ultimately, successful tax evasion fulfills the same goal as money laundering: integrating dirty money into the legitimate financial system.

The main goal of this research was to compare the legal regulation of money laundering and tax evasion in EU Member States and to determine differences in national regulations and prescribed sanctions. The connection between these

two criminal offenses stems from the very analysis of their definitions, a comparison of which shows that both behaviors represent illegal activities characterized by the concealment of the real origin or the actual amount of money, often relying on similar techniques. Although some scholars believe that tax evasion, since the activity from which the profit derives is legal, cannot be equated with the concealment of (illegal) profit in money laundering, the general understanding is that, when it comes to tax evasion, the illegality does not rest on the action of obtaining a profit but on the illegality of concealing the amount of money on which tax should be paid. Considering the apparent connection between tax evasion and money laundering, skepticism against treating tax evasion as a predicate criminal offense is unjustified, and skepticism concerning other predicate criminal offenses is not present.

The research results showed differences between EU Member States in prescribing punishments for criminal offenses of money laundering and tax evasion. Notably, some EU Member States prescribe a sentence below the EU recommendation of a minimum of four years, which implies that further and more vigorous efforts are needed in harmonizing laws with EU Directives and recommendations of international organizations (such as FATF). This is a prerequisite for removing regulation loopholes and achieving harmonized money laundering legislation. In this regard, future research could explain the observed differences between EU Member States and monitor further harmonization efforts.

It should be noted that, for this research, we analyzed only specific parts of legislation in each country related to criminal law, tax law, and anti-money laundering laws, and the paper does not offer the information required for assessing the legal systems of the observed countries. Also, as a limitation of the research, the legislation in some countries was not translated into English, making the research and data gathering more difficult.

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