



Door 4

MONEY LAUNDERING CRIME IN ALGERIA

Money laundering is currently the most important crime. Moreover, the fight against this phenomenon remains a current and global theme. Money laundering is a fairly simple concept to conceive. It is a process by which the proceeds of a criminal activity are masked in order to **conceal** its unlawful origin.

The first relationship with money laundering has a long history of illicit drug trafficking. Today, **ill-gotten gains** come from a wide range of criminal activities. Regardless of the crime, money launderers use **placement**, **stacking** and integration techniques to turn illicit gains into apparently lawful funds or proceeds.

Money laundering has a **corrosive** effect on the economy of a country. It **distorts** business decisions, increases the risk of bank failures, deprives the government of control of its economic policy, damages the reputation of a country and exposes its population to criminal activities. In short, it contradicts the old adage that crime doesn't pay.

The problem of money laundering was not particularly preoccupying as long as the economy, foreign trade and the banking system were under the exclusive control of the State. Any international movement of funds required a prior agreement of the Bank of Algeria. But currently this phenomenon raises many worries.

IDENTIFICATION OF MONEY LAUNDERING

According to the law n° 15-06 of February 15, 2015 modifying and supplementing the law n° 05-01 of February 06, 2005 about the prevention and the fight against money laundering and the financing of terrorism, the money laundering defined as: "*It is the conversion or transfer of property of which the author knows that it is the product of a crime, for the purpose of concealing or **disguising** the illicit origin of such property or of helping anyone involved in the main offense as a result of which, such property is recovered from the legal consequences of such acts*".

According to the definition adopted by the Council of Europe: "*This is the transformation of illicit funds into lawful money, which can therefore be reinvested in legal sectors or used for **personal purposes***".

ORIGIN OF THE TERM "LAUNDERING"

The expression (money laundering) would come from the United States; the money laundering was done by **the purchase** of laundries, in which the proceeds of the crime were sold. In 1928, in *CHICAGO*, *AL CAPONE* bought a chain of laundry. This legal frontage allowed *AL CAPONE* to recycle resources from its many illegal activities.

The arrest of *AL CAPONE* for **tax evasion** and not for money laundering shows the importance and the difficulty of money laundering in criminal organizations. The Mafioso: *LUCKY LUCIANO* and his right arm *MEYER LANSKY*, understood since 1932. The importance of inventing new techniques, money laundering, blessing to the network of islands politically independent says: off-shore countries.

THE SCOPE OF THE OFFENSE OF MONEY LAUNDERING

It aims any facilitation, false justification, criminal or **tortious** origin of the funds and any aid to a placement operation, and **dissimulation** or conversion of the proceeds of a crime or an offense. Example (sale without **invoicing**).

LIST OF ILLEGAL ACTIVITIES

- . Bribes (bribery)
- . Counterfeit money;
- . Drug trafficking;
- . Spying;
- . Extortion;
- . Tax evasion;
- . Murder;
- . the abductions
- . scam
- . illegal sales of arms
- . smuggling
- . human trafficking
- . computer fraud.

All of its activities generate significant profits, which encourages offenders to legitimize these ill-gotten gains through money laundering.

LAUNDERING PHASE

A- Placement (pre-wash) the launderer introduces his illegal profits, in the financial system, by splitting large quantities of cash to obtain smaller and less suspicious sums. They are then deposited directly, in a bank account or procuring various instruments of payments (checks, transfer) which are then collected and deposited on accounts in other places.

B- Stacking (washing): the launderer undertakes a series of complex financial transactions designed to remove funds from their sources. For example, those who are big sums of money to launder, create fictitious companies, in countries that are reputed either to have strict laws on banking secrets, or to laxness apply those that govern money laundering.

C- Integration (the launderer invests the funds in legitimate economic activities, make commercial investments, acquisition of buildings or the purchase of luxury goods).

HOW TO LAUNDER?

Three methods that are:

- 1) Makeup (directly present dirty money as a lawful gain).
- 2) Disguise (attributing the illegal gain to a lawful operation).
- 3) Amalgam (integrate the illegal gain into a legal activity).

WHO LAUNDERS?

- Small delinquent: his goal to hide the origin of funds (makeup), Criminal without legal activity (its purpose is to legalize funds of illicit origin (disguise).
- Organization network (mafia) their purposes completely obscure the illicit origin of funds (Amalgam).

CREATION OF THE CTRF

Executive Decree No. 12-127 of 11 April 2002 establishing, organizing and operating the Financial Technical Intelligence Unit (F.T.LU = C.T.R.F.). The C.T.R.F. is charged with the fight against the financing of terrorism and the money laundering, its mission notably:

- Receive reports of suspicions relating to any terrorist financing and money laundering operation transmitted to it by the organizations and persons designated by law.
- To process suspicious transaction reports.
- To transmit, the files corresponding to the public prosecutor.
- To propose any legislative or regulatory text aimed at the fight against money laundering and the financing of terrorism.
- Put in place the necessary procedures for the prevention and detection of all forms of financing of terrorism, and money laundering.

May appeal to any person whom it deems qualified to assist it in the accomplishment of its missions. It exchanges information in its possession with other organizations such as: The FATF (GAFL) (Financial Action Task Force on Money Laundering/Groupe d'Action Financier sur le blanchiment de capitaux) which is an intergovernmental organization created at the G7 Summit in

Paris 1989, in response to preoccupations about money laundering, which published the 40 recommendations, as well as the Arab Regional Anti-Money Laundering Organization (MENA FATF).

THE NEW LAW 15-06 DISPOSITIONS ABOUT FINANCING TERRORISM

The law n° 15-06 defines "*financing of terrorism*" as "*a terrorist act*". In Article 3, it is explained that the terrorist financing offense is punishable for "*any person, by any means, directly or indirectly, in a lawful or unlawful manner, deliberately providing, assembling or the intention to use them personally, in whole or in part, to commit or attempt to commit offenses described as terrorist acts*".

Is also punished "any legal person who commits the offense of financing of terrorism referred to in Article 3 above" to penalties provided for in "Article 18 bis of the Criminal Code", reads in Article 3 bis-1.

Regarding the jurisdiction of the Algerian courts, article 3 bis-2 specifies that it extends to terrorist financing acts: "committed in Algeria even if the terrorist act was committed abroad or the terrorist or the terrorist organization is abroad". The Algerian courts are also competent in the case of acts "committed abroad by an Algerian or a foreigner, when the terrorist act to which the financing is intended is committed in Algeria or when the terrorist or the terrorist organization to which the funds are intended to be in Algeria". Also included in their jurisdiction "the terrorist act for which the financing is committed against the interests of Algeria abroad or that the victim of the act is of Algerian nationality".

In Article 8 bis, the new law specifies the flow of "freezing and / or seizing" decision-making and its applications. "Where the request for freezing and / or seizure is supported by sufficient grounds or reasonable grounds to show that the person concerned by the measure is a terrorist, a terrorist organization or a person who finances terrorism, the President of the Court shall order, immediately, the freezing and / or seizure of funds and property subject to the request, subject to the rights of third parties in good faith".

Further, it is also stated that an order for seizure or freezing "is subject to challenge before the same authority (the president of the court of Algiers) within two days of notification". When Article 18 bis-1 grants the President of the Algiers Court the power to "authorize the person who was the subject of the freezing and / or seizure decision, and after consulting the public prosecutor, to use a part of these funds to cover his basic needs, those of his family as well as his dependents", article 18 bis-2 refers to "immediate seizure in the case of" persons, groups and entities the consolidated list of the Security Council Sanctions Committee established by resolution N°1267 (1999)".

It is also stipulated that the decision of freezing and / or seizure "is taken by order of the Minister of Finance". The latter may designate "the authority responsible for the management of the frozen and / or seized funds and may authorize the person who was the subject of the freezing and / or seizure decision to use part of his or her funds in order to cover his basic needs, those of his family as well as his dependents. The terms of application of the article in question will be determined "by regulation", adds the law.

PREVENTION FROM MONEY LAUNDERING

The prevention from money laundering is essential, firstly because the detection as early as possible of criminal activity is always a guarantee of the effectiveness of the fight and the resulting prevention is always more satisfactory than the repression a posteriori.

According to article 10 bis 3 of the law n° 15-06, the regulations taken by the Council of the Currency and Credit as well as the guidelines of the Bank of Algeria in the prevention and the fight against money laundering capital and the financing of terrorism apply to banks, financial institutions and financial services of Algeria Post Office and Change Offices which are subject to the control of the banking commission.

On the other hand, taxable persons other than those referred to in Article 10 bis 3 above, and in particular non-financial businesses and professions and insurance companies, are subject to the guidelines of the Financial Intelligence Unit.

The Bank of Algeria emphasizes that the insecurity hitherto put in place to counter these abuses are inadequate, hence the urgency to put in place new mechanisms to carry out this fight. It is, indeed, a reminder to the Bank of Algeria that incorporates the guidelines on the due diligence measures that banks must take in accordance with Article 27 of Regulation 12-03 of 28

November 2012 on preventing and combating money laundering. "In this context, it appeared necessary to clarify the expectations of the Bank of Algeria in light of findings made during the on-the spot monitoring missions, showing that the taxable persons did not correctly apply the obligations to fight against fraud, money laundering and terrorist financing".

The Central Bank recalls through its missive that "the appropriate procedures and controls make it possible to know and apprehend with satisfaction their customer base which constitutes the keystone of the anti-money laundering and the financing of terrorism". It states that "the introduction of appropriate vigilance measures not only leads to an effective fight against this scourge, but also protects these institutions from any misuse of their circuits", adding that "the implementation of new guidelines on vigilance should not prevent people in precarious financial or social situations from accessing banking services ". With new measures and mechanisms to fight money laundering, so against its corollary, the financing of terrorism, the Bank of Algeria intends to establish files on suspicious profiles of customers, to recall that this action falls within the framework of the national policy against terrorism that Algeria has adopted. It is behind the criminalization of ransom payments for terrorist groups.

CONCLUSION

Money laundering is the scourge against which, banks are mobilized, because they are the first victims of the use of financial circuits, it is necessary to locate the scale of the phenomenon, in terms of figures which is located next the IMF's(FMD) estimate of between 1,500 and 2,000 billion \$.

Money laundering is a global phenomenon. It is a recent phenomenon, but its origins go back to the 1920s. The globalization of financial markets, new information technologies, the culture of banking secrets and the redeployment of large criminal organizations, are all factors of vulnerability.

We suggest some solutions to eradicate this phenomenon:

- 1- Distribution of textbooks to the upper middle school, in order to sensitize them against this scourge.
- 2- The customs officers, and the border police, to be daily vigilant against all organized crimes.
- 3- At least fifteen minutes of each Friday prayer devoted to this phenomenon of money laundering to raise citizens' awareness.
- 4- Encourage training, seminars, retraining, for the staff of the bank, financial institution and Algeria Post to find out about this phenomenon.
- 5- Let the free flow of information concerning any suspicious transaction.
- 6- To urgently restore the credibility of the check.
- 7- At the counters of the *BANK OF ALGERIA* should be controlled by what the launderers can exchange notes against metal pieces.
- 8- Strengthening control at the level of banks, financial institutions, and Algeria post.
- 9- Put mechanisms to fight against the parallel market of the currencies to have the attribution of the approvals of exchange offices, in spite of the existence of the regulation of the bank of Algeria relating to the approvals.
- 10- A particular intention in matters, granting of credit.
- 11- To entrust the responsibility of our financial and economic system to competent, honest and loving people of their homeland.

❖ QUESTIONS:

- TRANSLATE THE UNDERLINED TERMS INTO ARABIC.
- GIVE AN ABSTRACT (IN ARABIC) TO THE TOPIC.