MASTER THESIS

Titel der Master Thesis / Title of the Master's Thesis

„Tax Evasion as a Predicate Crime for Money Laundering on an International and European Scope "

verfasst von / submitted by

Kamila Zelo

angestrebter akademischer Grad / in partial fulfilment of the requirements for the degree of

Master of Laws (LL.M.)

Wien, 2023 / Vienna 2023

Studienkennzahl lt. Studienblatt / Postgraduate programme code as it appears on the student record sheet:	UA 992 548
Universitätslehrgang lt. Studienblatt / Postgraduate programme as it appears on the student record sheet:	Europäisches und Internationales Wirtschaftsrecht European and International Business Law
Betreut von / Supervisor:	Dr. Dimitar Hristov

Acknowledgements

I would like to express my sincere gratitude to my dissertation supervisor Dr. Dimitar Hristov for giving me the opportunity to do this research under his supervision and for his valuable guidance and expertise.

Furthermore, let me express my thanks to my parents, who made it possible for me to enroll in this master's course. Their love, understanding, and commitment have been a constant source of inspiration for me, as has the presence of my dear sister. I am truly blessed to have such a loving and supportive family.

I would also like to express my gratitude towards my respected friends for their remarkable contributions towards my academic achievements. Their crucial role in this journey cannot be emphasized enough. Your constant support and encouragement have been invaluable to me.

With sincere gratitude, I offer my thanks to each and every one of you for your enduring support and for making this experience all the more enriching and meaningful.

Table of Contents

Abbreviations

AEOI	Automatic Exchange of Information
AML	Anti-Money Laundering
AMLD	Anti-Money Laundering Directive
CFA	Chartered Financial Analyst
CFT	Combating the Financing of Terrorism
CJEU	Court of Justice of the European Union
CPA	Certified Public Accountant
CRS	Common Reporting Standard
CPS	Crown Prosecution Service
CFA	Chartered Financial Analyst
CTF	Counter-Terrorist Financing
EBA	European Banking Authority
EDD	Enhanced Due Diligence
ESMA	European Securities and Markets Authority
EU	European Union
EUTIXS	European Union Tax Identification and Exchange System
FAFT	Financial Action Task Force
FIUs	Financial Intelligence Units
FSI	Financial Stability Institute
GDP	Gross Domestic Product
HMRC	Her Majesty's Revenue and Customs
IT	Information Technology
KYC	Know Your Customer
MLATs	Mutual Legal Assistance Treaties
MLR	Money Laundering Regulations
NCA	National Crime Agency
OECD	Organization for Economic Cooperation and Development
POCA	Proceeds of Crime Act
SFO	Serious Fraud Office
TMA	Tax Matters Agreement
TEU	Treaty of the European Union
TFEU	Treaty on the Functioning of the European Union

TIEAS Tax Information Exchange Agreements

UBO Ultimate Beneficial Owner

UK United Kingdom

UN United Nations

UNTOC United Nations Convention against Transnational Organized Crime

UHNWI Ultra-High Net Worth Individual

US United States

VATA Value Added Tax Act

VAT Value-Added Tax

Introduction

Tax evasion and money laundering are two forms of financial crime that have become progressively prevalent in the global economy. Tax evasion refers to the illegal omission or underpayment of taxes due to the government, whereas money laundering is the process by which illicit profits are returned to the economy.[1] Sometimes this happens via a series of complex bank or commercial transactions, and sometimes it's as simple as cash. The aim is to exchange illegally acquired money for legally obtained money, clean money, thus avoiding suspicion of law enforcement. Money laundering is often the main component of funding terrorist activities, which has important implications for compliance.[2] An estimated $2 trillion is laundered annually, according to the United Nations Office on Drugs and Crime.[3] Countries worldwide have established a full range of anti-money laundering and counter-terrorist financing regulations, given the scope and gravity of this problem. These offences are frequently associated with tax evasion operating as a prior or predicate offence to money laundering.[4]

The relationship between tax evasion and money laundering is of particular concern to policymakers, law enforcement agencies, and academics, given the potential for both crimes to damage the integrity of financial systems and destroy public confidence in government institutions. Despite widespread acknowledgement of the problem, nonetheless, more clarity and consensus on the legal and regulatory frameworks that should be implemented to fight these crimes still need to be addressed.

This master's thesis aims to address this void by evaluating the link between tax evasion and money laundering, as well as assessing the efficiency of present legal and regulatory frameworks in combating both crimes used in different jurisdictions, specifically the European Union and the United Kingdom. This thesis will specifically examine the following research questions:

---

[1] Kagan J, 'Tax Evasion: Meaning, Definition, and Penalties' (*Investopedia*, 11 October 2022) <https://www.investopedia.com/terms/t/taxevasion.asp> accessed 29 June 2023.
[2] Rossel L, Unger BU and Koningsveld J van, 'The Implications of Making Tax Crimes a Predicate Crime for Money Laundering in the EU: Building a Legal Dataset of Tax Crimes and Money Laundering in the European Union' (*Academic.oup.com*, 2021) <https://academic.oup.com/book/39754/chapter/339818508?login=false> accessed 5 May 2023.
[3] Unger B (ed)., Rossel L (ed). and Ferwerda J (ed)., Combating Fiscal Fraud and Empowering Regulators: Bringing Tax Money Back into the Coffers (Oxford University Press 2021).
[4] All Answers ltd, 'Effectiveness of Anti-money Laundering Legislative Provisions in the UK' (Lawteacher.net, June 2023) <https://www.lawteacher.net/free-law-dissertations/effectiveness-anti-money-laundering-legislation-0282.php?vref=1> accessed 9 May 2023.

- What primary means do tax evasion and money laundering overlap, and how do they intersect?
- To what extent are the current legal and regulatory frameworks in the aforementioned respected jurisdictions at preventing and identifying tax evasion and money laundering?
- What are the main obstacles and potential opportunities for enhancing the legal and regulatory frameworks for preventing tax evasion and money laundering, and what are the ramifications for policymakers, law enforcement entities, and other stakeholders of these impediments and opportunities?
- After conducting a comparative analysis of the selected jurisdictions, is it the case that most of them consider tax evasion as a predicate offence to money laundering?

By answering the following research questions, this thesis seeks to contribute to the ongoing discourse regarding the most effective approaches for tackling tax evasion and money laundering, with the ultimate goal of fostering the creation of sustainable and effective legal and regulatory frameworks for combating financial crimes.

My study on tax evasion as a predicate crime for money laundering is significant because it can potentially advance the legal field. This study can provide light on the efficacy of present laws and policies in combating financial crime by looking at the legal framework around tax evasion and money laundering and comparing it across different jurisdictions. First, this research can contribute to the development of the legal field by identifying gaps and weaknesses in the legal frameworks of various jurisdictions concerning tax evasion and money laundering and providing recommendations for enhancing their effectiveness. Secondly, it can offer insights into the challenges policymakers and law enforcement agencies face in combating financial crime, including cross-border issues, emerging technologies, and regulatory compliance. Furthermore, it can enhance the theoretical understanding of tax evasion and money laundering as criminal activities and provide a basis for future research. Finally, it might provide practical guidance for policymakers and law enforcement agencies to improve their efforts in combating tax evasion and money laundering. Ultimately, the outcomes of my research have the potential to make significant contributions towards the advancement and enhancement of legal frameworks aimed at combating financial crime. This, in turn, can lead to the establishment of more robust and proficient systems for addressing and mitigating the occurrence of financial wrongdoing. The paramount objective of such endeavours is to ensure the preservation and fortification of the integrity of the financial system while simultaneously safeguarding society from the detrimental consequences that arise from acts of financial crime.

By exploring the background and context of tax evasion as a predicate crime for money laundering, this thesis provides a comprehensive foundation for understanding the subsequent analysis and comparison of legal frameworks. It offers insights into the historical evolution, international cooperation, domestic legal frameworks, and the motivations driving tax evasion. This understanding contributes to the broader field of law by providing a comprehensive overview of the complexities surrounding tax evasion and its intersection with money laundering.

1. Background and Context

1.1 Evolution of Tax Evasion and Money Laundering

Understanding the historical evolution of tax evasion and money laundering is crucial to grasp the development and complexity of these financial crimes. Tax evasion needs specific conditions to flourish. Such conditions are created over time. To understand how we got here, we must look back to see how the liberalization of international capital flow and financial markets that began in the 1980s paved the way for what is now known as aggressive tax planning, tax competitiveness and tax evasion or avoidance by large transnational corporations. The last decades of the 20th century and the first years of the 21st century were characterized by significant changes in international financial relations. Growing financial flows, market openings and increasingly sophisticated new financial instruments are a testament to the unprecedented and global capital mobility phenomenon that inspired the phrase "financial globalization", which implies the idea of a globalized financial market on an international scale.[5]

Over the past few decades, tax evasion and money laundering practices have taken on a global scale, particularly involving ultra-high-net-worth individuals (UHNWI) and multinational corporations. Exploring the historical context helps shed light on the emergence of coordinated government action against these crimes and establishing international "fiscal governance." The

[5] a historical perspective on tax fraud and Evasion T, 'How We Got Here' (*Left.eu*) <https://left.eu/content/uploads/2019/02/howWegotHere_Viegas-003.pdf> accessed 9 May 2023.

formal theory of tax evasion, as we know it, is remarkably recent, having only gradually commenced to take shape during the past 30 years.[6]

Tax havens play a central role in the financial globalization mentioned above. The history of tax havens goes back to ancient times, about 4,000 years ago, when Greek merchants tried to do business outside the ports to avoid the prevailing taxes and duties.
For the Ancient Greeks, tax evasion and the shadow economy have been a concern for more than 3,000 years without finding a reliable solution.[7] The first traces of tax evasion and the effort to fight tax evasion can be seen in the institution, e.g. of the General Inspector of Public Administration, which was recently introduced in Greece for better control of the operation of the state, which several thinkers, such as Calvin and Fichte, in the form of a Supreme Council or a Supreme Court had proposed. A similar model system was witnessed in ancient Sparta, with the Tax Office or tax collectors functioning. However, Aristotle does not "see" this institution favorably since, as he notes, it only fosters corruption.[8] Moving further in history, we can also be aware of the recurring issues brought on by tax measures that occasionally took the shape of a storm and gave rise to several uprisings and crises throughout the Byzantine period as well. Over the following centuries, moving into Turkish domination in the Balkan, these tendencies for resistance against taxation would persist firmly and continue to dominate the Greek state.[9] With tax evasion witnessed so early, it is only fair that we go through money laundering to see the meeting point of these two financial crimes in time.

The practice of money laundering is, in essence, as old as time itself. Wealthy Chinese merchants moved their profits outside of China in 2000 BCE due to the lack of government support for trade. Then, using techniques that are used even now, they would reinvest their illicit funds in more businesses to legitimize those funds earned through ‘’illegal’’ activities at the time.

Money laundering was first practiced in the United States during the 1920s Prohibition era. As alcohol became prohibited in the US, a lucrative illicit market quickly developed to fill the void. As alcoholic beverage consumption increased, organized crime flourished. The phrase

[6] Sandmo A, ‘The Theory of Tax Evasion: A Retrospective View’ (2005) 58 National tax journal 643 <http://www.jstor.org/stable/41790296> accessed 10 May 2023.
[7] Στεργίου, Λ., Φοροδιαφυγή, μια ιστορία 3000 ετών (Καθημερινή, 2007).
[8] Αριστοτέλης, Πολιτικά, Β΄, 1270b
[9] Βογιάννου Α, ‘Φοροδιαφυγή στην Ελλάδα και τρόποι αντιμετώπισης’ (Πανεπιστήμιο Μακεδονίας 2016) accessed 10 May 2023.

"money laundering" is said to have been established by Al Capone, who allegedly set up launderettes throughout the city to conceal the source of the proceeds from selling alcoholic beverages. Any illegal earnings would be reintroduced into the financial system by being added to the money made by the launderettes. Before the 1980s, tax evasion was the most severe offence; Al Capone was charged and imprisoned for tax evasion as money laundering was not considered a crime at the time. Al Capone's case can be regarded as an early indicator of the connection between the two financial crimes.

The US drug war reached its peak in the 1980s. As a means of reducing the sale of illegal drugs, the Reagan administration enacted strict legislation that forbade money laundering. The US Money Laundering Control Act,[10] one of the first to be passed in 1986, was quickly followed by legislation of a similar nature in other countries. For the first time, money laundering became a federal offence. However, it soon became evident that because the drug trade and money laundering were both transnational crimes, national laws alone were insufficient.

The Vienna Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances,[11] which sought to combat the illicit drug trade, was enacted by the United Nations in 1988. The Vienna Convention mainly addressed drug trafficking, but it was a crucial first step to declaring money laundering explicitly about the drug trade unlawful. One hundred seventy-one nations ratified, and 168 countries put into effect the Vienna Convention.[12]

The Financial Action Task Force (FATF)[13] was founded in 1989 at the G7 conference, shortly after the Vienna Convention. The FATF's mission is to examine worldwide government efforts to combat money laundering and analyze developments in the industry. The task group issued 40 suggestions for the participating nations to abide by; however, not all countries do so. The US and the UK are among the 30 nations that now belong to the FATF.

Nineteen terrorists affiliated with the Islamic extremist organization al Qaeda hijacked four aircraft on September 11, 2001,[14] and used them to conduct suicide attacks against American

---

[10] "H.R.5077 - 99th Congress (1985-1986): Money Laundering Control Act of 1986." *Congress.gov*, Library of Congress, 22 July 1986, https://www.congress.gov/bill/99th-congress/house-bill/5077 accessed 12 May 2023.

[11] *United Nations Convention Against Illicit Traffic in narcotic ... - INCB*) <https://www.incb.org/docments/PRECURSORS/1988_CONVENTION/1988Convention_E.pdf> accessed 12 May 2023.

[12] 'What Is Money Laundering? A Simple Guide' (*Ujuzingo*) <https://ujuzingo.com/blog/what-is-money-laundering-a-simple-guide/> accessed 12 May 2023.

[13] https://www.fatf-gafi.org/en/home.html

[14] Notable Enterprises, 'September 11th Attacks' (*Asnotedin.com*) <https://asnotedin.com/?action=event&id=E0000093> accessed 12 May 2023.

targets. Two of the aircraft fell into the World Trade Center's twin towers in New York City, one into the Pentagon in Arlington, Virginia, not far from Washington, D.C., and one into a field in Shanksville, Pennsylvania. The terrorist attacks of September 11, 2001, which took over 3,000 lives, led to significant American counterterrorism programs and helped define George W. Bush's administration. Regulations on money laundering, especially those affecting banks, were significantly impacted by the 9/11 terrorist assault. The Patriot Act, which provided the US government broad authority to combat terrorism, was approved in the wake of 9/11. Financial institutions were required to improve their AML programs and diligence reports on overseas bank accounts under Title III of the Patriot Act. To enhance banking regulations concerning global money laundering by strengthening the cooperation between law enforcement and financial institutions, Title III essentially amended some sections of the 1986 Money Laundering Control Act. Unsurprisingly, the rest of the world adopted a harsher AML regulation like the US did.

Money laundering is still a significant issue on a global scale, even though it is getting tougher. For example, due to allegations that it assisted clients in opening offshore accounts so they could move money gained illegally, Deutsche Bank is presently under investigation (spurred by the Panama Papers), a case which will be analyzed later in this paper.

Except for the case of the American Mafia leader Al Capone, where tax evasion and money laundering were linked between them, we do not have any clear literature throughout history where both crimes met so that we can establish a clear connection between the two of them. In the following chapters, we will focus more specifically on court judgments, legal frameworks internationally and legal definitions to attempt to draw a link between those two financial crimes.

1.1.1 Historical Perspective on Taxes and Tax Resistance

Examining the historical perspective of taxes and tax resistance offers valuable insights into the motivations and actions of individuals seeking to escape their tax liabilities. Throughout history, taxes have been viewed as a violation of property rights, and the negotiation of taxation legitimacy and authority has often led to disagreements and resistance. This section explores tax revolts, anti-tax movements, and historical events that began as tax protests, shedding light on the motivations behind tax evasion and the potential shortcomings of tax systems.

A tax is a ‘compulsory, non-punitive exaction of money from a private person or entity by a public authority for public purposes. laws, of framework a of composed is system tax A [15]’ regulations, and procedures that govern the collection and administration of taxes by a government. Taxes are mandatory payments made by individuals and businesses to the government, which are used to fund public services and programs. The tax system works by levying taxes on different types of income, such as wages, profits, and investments. The government determines the tax rate and the base on which the tax is calculated and then collects taxes through various means, such as payroll deductions, income tax returns, and sales tax. Regulations are to control behaviour directly, so it is no surprise that regulations have incentive or avoidance effects.[16]

Among history's earliest taxes was the import duty. Real estate is easier to identify, and tax than other assets, and a head tax is even simpler to enact. Therefore, it is unsurprising that land and head taxes were the first direct levies. Since ancient Greece, the majority of people in governing positions relied on taxes to fund activities like drafting laws and running the government, supplying food, developing public infrastructure, as well as activities like education, social assistance, and occasionally even religious activities. As a result, governments often relied on their "power to tax" the people who resided on their territory and were subject to their authority, including both subjects and citizens. Therefore, paying taxes or tax-like levies on various tax bases, in kind or money, has generally been a feature of all complex political entities. Consumption taxes were imposed in ancient Greece and Rome. Regarding generating income, tariffs—taxes on imported goods—were frequently substantially more significant than internal excises. Taxes on property would be temporarily levied during times of war as a way to raise more revenue. These taxes were initially only applicable to real estate but were eventually expanded to cover other assets. Transactions involving real estate were also taxed. The tax rules of the Roman Empire made distinctions between citizens and residents of conquered lands in Greece, where free people had different tax duties from enslaved people.[17]

From a modern legal perspective, taxes are compulsory transfers of resources that households and enterprises pay to one or several government bodies without receiving a specific benefit in

---

[15] Green SP, ‘What Is Wrong with Tax Evasion?’ (2009) <https://papers.ssrn.com/abstract=1374387> accessed 12 May 2023.
[16]Reid JD Jr, ‘Tax Revolts in Historical Perspective’ (1979) 32 National tax journal 67<http://www.jstor.org/stable/41863157> accessed 12 May 2023.
[17] Hopkins K, “Taxes and Trade in the Roman Empire (200 B.C.–A.D. 400)” (1980) 70 The Journal of Roman Studies 101.

return.[18] This is what separates taxes from fees or from social contributions in the twentieth and twenty-first centuries, a distinction that wasn't there or was at least less evident prior to the nineteenth century.[19] However, even in eras without such distinctions, taxation was always seen as a violation of property rights, evoking Charles Tilly's idea that the state had the authority to force people to give up some of their wealth or income[20]. The collection and payment of taxes have always prompted scrutiny of the interactions between social and professional groups as well as, in more democratic settings, between households/individual taxpayers and the government. Even though democratic consent, whether implicit or explicit, appears to be a historical novelty for the majority of the world, it is crucial to understand how the ruling class forced their subjects or citizens to pay taxes as well as why and how those very same citizens attempted to avoid or evade tax liability or to contest such an obligation fundamentally. The negotiation procedures around taxation's legitimacy and authority to levy are best seen when disagreements between the government and its tax-paying constituents and where the people in question have publicly or secretly refused to pay the imposed tax amount or have even rejected paying taxes.

Generally, tax systems are argued that they are designed to promote fairness, simplicity, and efficiency.[21] Fairness refers to the idea that individuals and businesses should pay taxes based on their ability to pay and that the burden of taxation should be distributed equitably. Simplicity refers to the need for clear and understandable tax laws which are easy to comply with. Efficiency refers to the goal of minimizing the costs of tax collection and administration while maximizing the revenue raised. However, since the inception of taxes, individuals have sought to escape their tax liabilities illegally, regardless of their income level.[22]

The need of citizens to escape and resist such legal liability and the revolutions around taxpaying have been studied by several historians throughout the years.[23] Tax resistance is the reluctance to pay taxes because one opposes the government that is levying them, its policies, or

[18]Schönhärl K, Hürlimann G and Rohde D, Histories of Tax Evasion, Avoidance and Resistance (Routledge 2022).
[19] Schönhärl K, Hürlimann G and Rohde D (n 17) 1-15.
[20] Tilly, Charles. Coercion, capital, and European states, AD 990-1992. *Book* (1992 Wiley) Cambridge.
[21] Tavares R, 'Relationship between Money Laundering, Tax Evasion and Tax Havens' (2013) <https://www.europarl.europa.eu/meetdocs/2009_2014/documents/crim/dv/tavares_ml_/tavares_ml_en.pdf> accessed 15 May 2023.
[22]Pickhardt MP and Prinz A, 'The Nature of Tax Evasion and the Shadow Economy in: Tax Evasion and the Shadow Economy, Chapter 1', (*Chapters*, 1 January 1970) <https://ideas.repec.org/h/elg/eechap/14580_1.html> accessed 15 May 2023.
[23] Schönhärl K, Hürlimann G and Rohde D (n 17).

taxation in general.[24] Tax resistance is a type of direct action and civil disobedience if done in violation of the tax laws. Considering that those tax revolts and anti-tax resistances are usually eventful, they often attract high publicity, allowing scholars, historians, etc., to examine them and access various resources. Those examinations provide us with necessary information and insights into why citizens choose not to abide by the tax systems. What does the taxation system lack? Have governments used taxes as a means of unfair enrichment throughout the years?
It is worth noting that tax resistance movements have been the reason why many empires, such as the Roman, Spanish, Egyptian and Aztec, collapsed. The Magna Carta, the American Revolution, and the French Revolution are a few instances of historical occurrences that started as tax revolts.

Some tax revolts were not even about taxes in the beginning. But taxes were the revealed hand of the government. A good understanding of this could be gained by looking into the history behind one of the most important legal texts, the Magna Carta. The Magna Carta represents the liberty and the defense of rights against arbitrary authority. This historic charter resulted from a dispute partly sparked by the onerous taxes King John of England levied in the early 13th century. It was born out of an environment of tension and resistance. A key turning point in the fight for individual liberty and the reduction of arbitrary taxes was the tax revolt that resulted in the construction of the Magna Carta. The Magna Carta of 1215 resulted from a failed war and excessive tax. David Carpenter goes so far as to say it was 'above all about money. Its overwhelming aim was to restrict the king's ability to take it from his subjects'.[25] While the Magna Carta sometimes went beyond just dealing with the Barons' concerns and applied benefits to the free, it was taxing which had driven those Barons to rebel, and those taxes applied to all of society, or at least those who could pay.[26] The Magna Carta arose due to the Barons chafing at the tax extortion and wanting to limit the King's power to tax them.[27] The towns, for example, often had different economic interests to the countryside, and within both, there were clear and less clear class divisions between those who did the work and those who exploited that labor.[28] What, then, did the Barons win? They won (what became) the rule of law, such

[24] Passant J, 'Tax and the Forgotten Classes: From the Magna Carta to the English Revolution' (2016) 10 Australasian Accounting, Business and Finance Journal <https://pdfs.semanticscholar.org/1727/cde6a82e1200426552293cf9c6afd54850a4.pdf> accessed 19 May 2023..
[25] Passant J, 'Tax and the Forgotten Classes – a Brief History Written in Letters of Blood and Fire' (*SSRN*, 31 May 2016) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2783694> accessed 19 May 2023.
[26] Ibid (n 23).
[27] Ibid (n 23).
[28] Ibid (n 23).

that by 1300 all sections of society saw the Magna Carta as protecting them against the arbitrary rule (Carpenter 2015).[29] The Barons won limits on the power of the King to levy taxes on them and others.[30] In essence, the Magna Carta established a 'link between taxation and consent ' (Maddicott 2015, p. 22) that was to echo down the ages.[31] We were seeing, according to Carpenter, 'the emergence of the tax-based parliamentary state. 'Carpenter 2015, p. 459).[32] While latter-day libertarians might celebrate the link between taxation and representation, they do so from the point of view of the barons rather than the commoner.[33]

Based on the observation that tax resistance movements can be traced back to early origins, where their primary objective was to abstain from providing monetary contributions to the government, driven by the belief that paying taxes restricts individual freedom and hampers economic growth, it is plausible to establish a connection between their motivation and the contemporary concept of tax evasion. Studies have demonstrated that tax resistance takes two primary forms, avoidance and evasion. According to an economic theory, there is a correlation between tax rates and tax resistance: the more significant the tax burden, the greater the motivation to avoid it. Over time, the relationship might continue to be accurate. In order to safeguard their post-tax earnings, taxpayers may thus turn to tax evasion and avoidance when the overall amount of taxes rises. It could also be applicable to various taxpayers at one particular moment. People who pay taxes at high marginal rates could be more tax resistant than people who pay taxes at low marginal rates since they would be rewarded more for tax evasion and avoidance.[34]

In conclusion, the historical perspective on taxes and tax resistance offers important insights into the causes and behaviors of those who want to avoid paying their fair share of taxes. Taxes have always been considered an infringement on property rights, which has sparked contention and opposition. We learn more about the causes of tax evasion and the possible flaws in tax systems by looking at tax revolts, anti-tax movements, and historical occurrences that started as tax protests.

---

[29] Ibid (n 23).
[30] Ibid (n 23).
[31] Ibid (n 23).
[32] Ibid (n 23).
[33] Passant J (n 24).
[34] Dean PD, Keenan TKee and Kenney F, 'Taxpayers' Attitudes to Income Tax Evasion: An Empirical Study ' (*HeinOnline*, 8 March 2021) <https://heinonline.org/HOL/LandingPage handle=hein.journals%2Fbritaxrv1980&div=9&id=&page=> accessed 19 May 2023.

Tax resistance has significantly impacted forming communities and undermining governmental power throughout history, from ancient civilizations like Greece and Rome to more modern historical landmarks like the Magna Carta. The Magna Carta, for instance, was created in reaction to King John of England's oppressive taxes in the 13th century, illustrating the significant influence tax revolts may have on the quest for individual liberty and the elimination of arbitrary taxation.

The historical analysis of tax resistance movements also emphasizes the constant conflict between citizens and governments over the rightness and legality of taxing. Conflicts and resistance frequently stem from attempts by individuals or groups to escape their tax obligations to negotiate the legitimacy of taxing. This opposition, motivated by the idea that paying taxes limits personal freedom and slows economic progress, can take many different forms, including tax evasion and avoidance.

Understanding the historical background of tax resistance lays the groundwork for the next chapter, examining the connection between tax resistance and money laundering. Examining the extant body of literature is imperative for comprehending the mechanisms through which tax resistance movements can serve as precursors or catalysts, prompting individuals or entities to engage in tax evasion practices that subsequently facilitate money laundering endeavors. By investigating the interrelationships among tax resistance, tax evasion, and money laundering, we can enhance our comprehension of the dynamics inherent in these occurrences, their ramifications for preventing financial misconduct, and the development of effective policy measures.

1.1.2 The Relationship between Tax Resistance and Money Laundering

Having examined the motives and behaviors behind tax resistance throughout history, we now focus on another illicit activity that undermines financial institutions worldwide: money laundering. While tax resistance has shed light on the divisive nature of taxes and the questioning of tax regimes' authority, understanding its context provides a valuable framework for investigating its connection to money laundering. The analysis of taxation and tax resistance throughout history has highlighted the motives and behaviors of those trying to avoid paying their fair share of taxes. It has brought attention to the divisive nature of taxes and the recurrent issue of people questioning the authority and validity of tax regimes. This comprehension of tax resistance offers a valuable context for investigating its relationship to money laundering. In this section, we delve into the intricate relationship between tax resistance and money laundering, unveiling how these phenomena intersect and influence each other. However, given that a more thorough study will be presented in later chapters, we briefly examine the connection between tax resistance and money laundering in this section.

Money laundering is the process of concealing the origins of illegally obtained money, typically by passing it through a complex sequence of transactions to make it appear as if it originated from a legitimate source.[35] The ultimate goal of money laundering is to make the proceeds of criminal activity (e.g. drug trafficking, bribery, extortion, etc.) appear as though a legal business or other activity generated them.[36] Money laundering may occur in several ways, including the shrewd exploitation of a complex, intertwining web of secrecy jurisdictions and/or tax havens, the manipulation of the notion of legal persons and legal arrangements to create "shell companies" that can serve as covers for dishonest people, the abuse of loopholes in current anti-money laundering legislation, inadequate enforcement of these rules, and the corruption of authorities; all of these methods can be used to launder money.[37] The methods for money laundering are essentially the same, regardless of where the money came from or how it was obtained—through illegal means or a violation of the law.[38]

Although money laundering is illegal in most countries, it only became illegal in recent years, and it can have severe consequences for those who are caught. In addition to criminal penalties, money laundering can damage the reputation of individuals and businesses involved and undermine the integrity of the financial system as a whole. As mentioned, money laundering can have negative effects economically, socially and politically.[39] The economic effects, for example, concern unfair competition between honest and dishonest businesses, distortion of prices, a negative effect on investment, and, eventually, the crowding of honest businesses.[40] Social

[35] Korejo MS, 'The Concept of Money Laundering: A Quest for Legal Definition' (*Journal of Money Laundering Control*, 2021) <https://www.emerald.com/insight/content/doi/10.1108/JMLC-05-2020-0045/full/html> accessed 20 May 2023.
[36] Tavares (n 20).
[37] Ibid.
[38] Ibid.
[39] Unger Brigitte and Daan van der Linde, *Research handbook on money laundering* (Edward, Elgar Publishing 2015).
[40] Brigitte and Linde (n 38) 4.

effects include an increase in corruption and bribing.[41] Laundering needs helpers and facilitators, so more and more people are drawn into criminality. Political developments are, for example, that criminals can undermine democratic systems, with drug dealers becoming ministers.[42] It is an essential part of many illicit actions, such as tax evasion.

Despite the fact that money laundering and tax evasion may appear to be separate phenomena, they are closely related in the world of financial fraud. Tax resistance can be a prelude or stimulant for people or organizations to engage in tax evasion, which can then make money laundering operations easier.[43] Policymakers have long acknowledged the presence of a significant intersection between tax evasion and money laundering.[44] These illicit activities are frequently intertwined, as they often involve similar methodologies. The utilization of corporate shell companies and the creation of fraudulent business records and accounting journal entries are commonly employed in both offences.[45] Additionally, both tax evasion and money laundering frequently exploit secretive offshore tax havens, where offenders conceal assets that are estimated to amount to approximately 10% of the global GDP.[46]

Tax evasion may serve as a catalyst for the generation of illicit funds, which must then be laundered to ensure that they appear legal.[47] When individuals or organizations participate in tax evasion, they purposefully conceal or underreport their taxable income or assets, falsify accounting records, or take advantage of legal loopholes to reduce or completely avoid paying taxes to the government. At the forefront of the international agenda has been the issue of Illicit Financial Flows, as mentioned in an OECD report,[48] which highlights that governments worldwide are seeking to join forces to combat money laundering, tax evasion and international bribery, which make up the bulk of IFFs.[49]

[41] Ibid.
[42] Ibid.
[43] Kemsley D., Kemsley, SA. and Morgan, FT ‘Tax evasion and money laundering: a complete framework’ (*Journal of Financial Crime* , 2022) <https://doi.org/10.1108/JFC-09-2020-0175>accessed 21 May 2023.
[44] Kemsley, Kemsley and Morgan (n 42).
[45] Ibid.
[46] Ibid.
[47] Ibid.
[48] OECD, *Illicit Financial Flows from Developing Countries: Measuring OECD Responses* (Organization for Economic Co-operation and Development (OECD) 2014) <https://www.oecd.org/corruption/illicit_financial_flows_from_developing_countries.pdf> accessed 22 May 2023.
[49] Solheim E, ‘Illicit Financial Flows from Developing Countries: Measuring ... - OECD ’(*Report*, 2014) accessed 22 May 2023.

Furthermore, numerous high-profile instances from recent years have shown how closely tax evasion and money laundering are related and how these illegal activities are intertwined and contribute to financial crime. These cases serve as an unsettling reminder of the negative effects of tax evasion and the following requirement for money laundering to cover up illegally acquired funds. We can learn how tax evasion might produce illegal funds that need laundering to appear lawful by looking at a few illustrative cases. One of the most well-known cases concerning both tax evasion and money laundering is the Panama Papers Scandal.[50]

Explained in 2016, the Panama Papers, a massive trove of documents from Panamanian law firm Mossack Fonseca, exposed a network of offshore accounts and shell companies used for tax evasion and money laundering purposes.[51] The leaked documents revealed how wealthy individuals, including politicians, celebrities, and business leaders, utilized offshore entities to evade taxes and conceal their assets.[52] The Panama Papers, or Panama Leaks, are approximately 12 million documents dating back to the early 1970s detailing confidential and private financial information pertaining to 215,000 offshore companies. John Doe, an anonymous whistleblower from Mossack Fonseca, leaked the documents to Bastian Obermayer of Süddeutsche Zeitung (SZ) in May 2015, offering full help to the prosecutors conducting the investigations. ICIJ published the document on its website, and SZ sought the help of ICIJ, a platform for journalists from over 100 media organizations in 80 countries, to analyze the documents explaining Mossack Fonseca's functions and operations.[53]

The Panama Papers revealed the modus operandi of wealthy individuals, their associates, relatives, and public officials to keep their financial affairs secret.[54] The firm was well-connected with several present and former head-of-states, their associates/relatives, business tycoons, government bureaucrats, and celebrities worldwide.[55] Some prominent names of current head-of-states include Ayad Al-lawi, Khalifa bin Zayed Al Nahyan, Malcolm Turnbull, Mauricio Macri, Petro Poroshenko, Rafael Correa, Salman bin Abdul-Aziz Al-Saud, and Sigmundur Dav Gunnlaugsson.[56]

---

[50] Ping T-X and others, 'Panama Papers and the Dilemma of Global Financial Transparency '(*Article*, April 2018) accessed 22 May 2023.
[51] Ping (n 49).
[52] Fernando GA and Antoine M, 'The Network Structure of Global Tax Evasion Evidence from the Panama Papers' (*Journal of Economic Behavior & Organization*, 7 April 2022) accessed 22 May 2023.
[53] Ibid (n 49).
[54] Fernando (n 51).
[55] Ibid (n 49).
[56] Ibid.

Mossack Fonseca was allegedly involved in numerous instances of tax evasion and money laundering, including the Brink's-Mat robbery (1983), Argentine money laundering (2014), Commerzbank (2015), and Petrobras (2016).[57] The Panama Papers leak revealed the financial activities of Mossack Fonseca, which facilitated its clients by setting up offshore firms in various tax havens around the world.[58] The data bank contained 2.6 terabytes of data dating back to as early as 1970 till 2015.[59]

The Mossack Fonseca cases offer credible evidence of the strong relationship between tax evasion and money laundering.[60] The famous Brink's-Mat robbery of 1983 exemplifies how illegal funds may be concealed and presented as legitimate. The proceeds of the crime were laundered through a network of offshore corporations and banks. Mossack Fonseca's role in supporting money laundering activities on a worldwide scale is further highlighted by the Argentine money laundering case, the Commerzbank investigation, and the Petrobras corruption affair.[61] But the real revelation of the scope of tax evasion and money laundering by influential people throughout the world came from the Panama Papers leak in 2016. This massive data release showed Mossack Fonseca's and its client's financial activities, exposing the pervasive use of offshore companies and tax havens for the concealment of wealth and tax evasion.[62] Given that tax evasion and money laundering continue to jeopardize the integrity of financial institutions worldwide, these instances highlight the urgent need for more international cooperation and regulations. In order to prevent illicit funds from flowing freely through the complex webs of tax evasion and money laundering, the battle against financial fraud necessitates constant monitoring and attempts to identify and punish individuals responsible.[63]

In conclusion, the intricate connection between tax resistance and money laundering shows how closely they relate to financial fraud. The accumulation of illicit funds might be sparked by tax evasion, which then calls for money laundering to hide their illegal sources and present them as legitimate. Since these two illegal enterprises frequently use the same methods and take advantage of offshore tax havens, policymakers have long recognized their important confluence. The Panama Papers leak exposed a network of offshore accounts and shell companies used for avoiding taxes and hiding assets, serving as an acute example of how tax evasion and

[57] Ibid.
[58] Ibid (n 51).
[59] Ibid (n 49).
[60] Ibid (n 51).
[61] Ibid (n 49).
[62] Ibid (n 51).
[63] Ibid.

money laundering are linked. Moreover, numerous real-life instances have demonstrated the undeniable connection between tax resistance and money laundering. Tax evasion assisted in accumulating illegal funds, which were then laundered to conceal their origins, as evidenced by incidents like the Brink's-Mat robbery, the Argentine money laundering case, the Commerzbank inquiry, and the Petrobras corruption scandal.

In this introductory chapter, we tried to establish a primary connection between these two financial crimes; however, further analysis is needed since no clear-cut framework or straightforward literature proves the link between the two, even though in the legal world, it is well-known that the one may lead to the other. The following chapter will delve into a comprehensive literature review of international legal instruments and conventions pertaining to tax evasion, money laundering and their interconnectedness.

2. Literature Review

2.1 Legal Context

2.1.1 International Legal Instruments and Conventions

In light of the examination conducted in the preceding chapter, which delved into the historical motives and behaviors underpinning tax resistance and explored the intricate nexus between tax resistance and money laundering, there are indications that these aforementioned offences are intertwined. This chapter endeavors to delve further into this interconnection by scrutinizing the legal landscape encompassing tax evasion, money laundering, and their interplay. The international realm is pivotal in shaping the global response to these illicit activities through the employment of legal instruments and conventions, which aim to establish standardized regulations and facilitate international cooperation. Through an examination of these legal frameworks, valuable insights emerge regarding the collective endeavors aimed at combating financial crimes and ensuring transparency within the global financial system. This section presents an all-encompassing literature review of key international legal instruments and conventions that have emerged as indispensable tools in addressing tax evasion and money laundering on an international scale since both tax evasion and money laundering have been categorized under the term “international crimes”.[64]

The utilization of tax evasion as a means to apprehend major criminals engaged in activities like money laundering, which involve illicitly acquired funds from drug trafficking and similar sources, has contributed to a wider international scope for both offences. Additionally, tax evasion occurring independently through methods like offshore companies and tax havens has further globalized the prevalence of these crimes. Consequently, the global nature of these criminal activities necessitates globalized approaches and solutions. As previously discussed, there has been a practical association between taxes and money laundering since their inception. Initially, tax evasion practices served as a gateway to money laundering, and subsequently, tax evasion was recognized as a valuable tool in identifying money launderers. However, it took considerable time to formalize this connection within legal frameworks and international regulations.[65]

Firstly, International legal instruments and conventions play a crucial role in addressing tax evasion and money laundering by establishing standards, fostering collaboration, and facilitating the exchange of information among nations.[66] These instruments serve as fundamental pillars for international cooperation in combatting international financial crimes, providing guidance and incentivizing governments to take necessary action.[67] These instruments primarily establish global benchmarks along with standards to assist with identifying and combatting tax evasion and money laundering. They provide countries with an agreed-upon set of rules and guidelines to follow, assuring a uniform and well-coordinated international response to these illegal acts. International legal mechanisms level the playing field by setting these standards and preventing governments from acting as havens for unlawful financial activity.[68]

Additionally, these instruments promote cross-national collaboration between nations. They strongly emphasize the value of cooperation, information exchange, and reciprocal legal help

---

[64] Morais HV, ‘Fighting International Crime and Its Financing: The Importance of Following a Coherent Global Strategy Based on the Rule of Law ’(*Volume 50 Issue 3 Article 5*, 2005) accessed 24 May 2023.

[65] Rossel L and others, ‘Tax Crimes as a Predicate Crime for Money Laundering ’(*Documents download module*, 20AD) accessed 24 May 2023.

[66] ‘United Nations Convention against Transnational Organized Crime’ (*United Nations : Office on Drugs and Crime*) <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html> accessed 31 May 2023.

[67] ‘International Cooperation to End Tax Crimes Crucial for Achieving Sustainable Growth Agenda, Speakers Say as Development Financing Forum Concludes’ (*Press.un.org*) <https://press.un.org/en/2017/ecosoc6840.doc.htm> accessed 1 June 2023.

[68] Ibid (n 66).

in the fight against tax evasion and money laundering. Countries are urged to cooperate, exchange information, and coordinate their efforts to find and prosecute those responsible for financial crimes using the framework made available by these instruments. Through cross-national cooperation and resource sharing, this partnership improves the efficacy of anti-money laundering and anti-tax evasion efforts.[69]

Moreover, information exchange between nations is one of the major methods that these instruments promote.[70] They create pathways and frameworks for the exchange of relevant financial data between countries. This information sharing assists in discovering hidden assets, tracking nefarious financial movements, and identifying people or organizations engaged in tax and money laundering. These instruments assist nations in improving their investigative and enforcement capacities, therefore boosting their capacity to identify and deter financial crimes. This is done by simplifying the flow of information.[71]

In this regard, The Financial Action Task Force (FATF) stands out as one of the prominent international organizations leading the global fight against these financial crimes. Since its founding as an intergovernmental body in 1989, the FATF has been crucial in establishing global norms and advancing practical solutions to stop illegal financial activity.[72] The FAFT was initially established as an organization that had as its main goal to start combating money laundering; however, its target has expanded now covering more crimes like the financing of weapons of mass destruction, corruption, and terrorist financing.[73] The FATF helps countries in enhancing their legal and regulatory systems, fostering collaboration and facilitating information sharing on a global scale by offering guidance and recommendations. Specifically, the FAFT incorporates specific provisions and mechanisms in its standards and recommendations that contribute to the prevention, detection, and prosecution of tax evasion and money laundering. Such provisions and mechanisms are the Risk-based approach, Customer due diligence (CDD), Financial intelligence units (FIUs)[74], International cooperation and mutual legal assistance and monitoring/peer review.

---

[69] Ibid.
[70] 'Partnering in the Fight against Financial Crime: Data Protection, Technology and Private Sector Information Sharing' (*Fatf-gafi.org*) <https://www.fatf-gafi.org/en/publications/Digitaltransformation/Partnering-in-the-fight-against-financial-crime.html> accessed 1 June 2023.
[71] Ibid (n 69).
[72] Kenton W, 'Financial Action Task Force (FATF): What It Is, How It Works '(*Investopedia*, 1 May 2023) accessed 24 May 2023.
[73] Kenton (n 71).
[74]Forget L, 'Financial Intelligence Units,an Overview' (International Monetary Fund 2004).

The FATF Recommendations set out the essential measures that countries should have in place to identify the risks and develop policies and domestic coordination; pursue money laundering, terrorist financing and the financing of proliferation; apply preventive measures for the financial sector and other designated sectors; establish powers and responsibilities for the competent authorities (e.g., investigative, law enforcement and supervisory authorities) and other institutional measures; enhance the transparency and availability of beneficial ownership information of legal persons and arrangements; and facilitate international cooperation.[75]

Firstly, the FAFT recommendations promote a risk-based approach to anti-money laundering and counter-terrorism financing. With this approach, falling under the AML/CFT policies and coordination, countries must identify, evaluate, and fully understand the threats of money laundering and terrorist funding they encounter. Governments can better deploy their resources and concentrate on high-risk regions by adjusting their preventative actions to meet these risks.[76]

Secondly, the FAFT focuses on recommending preventive measures as a means of incorporating an international defense mechanism for money laundering. Within this spectrum, the FAFT recommends measures such as Customer due diligence (CDD). The FATF puts a strong emphasis on the value of customer due diligence measures, which call on financial institutions to confirm the identities of their clients, comprehend the nature of their business relationships, and keep an eye out for any unusual activity in their transactions. Effective CDD implementation increases transparency, making it more difficult for people to conceal illicit funds or engage in tax evasion or money laundering.[77]

Thirdly, the FATF is essential in fostering international cooperation between countries. To combat international financial crimes, it promotes cooperation and coordination between governments, law enforcement agencies, and financial institutions. The FATF evaluates nations' adherence to its criteria through peer and mutual evaluations and highlights areas that require improvement. Through this procedure, countries are encouraged to coordinate their efforts, share best practices, and improve their cooperation in the fight against tax evasion and money laundering.[78]

---

[75] FATF (2012-2023), International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, FATF, Paris, France, www.fatf-gafi.org/recommendations.html accessed 25 May 2023.
[76] FAFT (n 74) 10.
[77] FAFT (n 74) 14-21.
[78] FAFT (n 74) 27-30.

Lastly, the FATF recommends the establishment of specialized national FIUs (Financial intelligence units) that act as focal points for gathering, processing, and sharing financial intelligence. FIUs are essential in gathering reports of suspicious transactions, conducting evaluations, and exchanging data with law enforcement agencies both domestically and abroad. This makes it easier to find and look into instances of possible money laundering and tax evasion.[79] Among the FATF's notable accomplishments is the development of the Nine Special Recommendations on Terrorist Financing and the Forty Special Recommendations on Money Laundering, which have been extensively embraced by countries all over the world as international standards. The FATF's initiatives have improved legal systems, raised public awareness, and strengthened international collaboration in the fight against tax evasion and money laundering. However, the FATF standards are facing obstacles with their implementation. Some countries need help in efficiently adopting and enforcing the suggested measures, frequently as a result of a lack of resources, capacity restrictions, or conflicting objectives. Additionally, the dynamic nature of financial crimes presents continual difficulties and necessitates constant revisions and adjustments to preventive measures. For the FATF and its member countries, keeping up with cutting-edge methods of money laundering and tax evasion, including the use of cryptocurrencies and online platforms, continues to be challenging.[80]

Overall, the FATF's significance in combating tax evasion and money laundering stems from its function as a standard-setter, advocate of global collaboration, and facilitator of information exchange. Its initiatives help countries strengthen their defenses against financial crimes and advance a more coordinated and successful international response to combat tax evasion and money laundering.

In addition to the Financial Action Task Force (FATF), other significant international legal instruments and conventions have become important tools in the fight against tax evasion and money laundering, strengthening the worldwide reaction to these unlawful activities. The United Nations Convention against Transnational Organized Crime (UNTOC)[81] is one of those important legal instruments.

---

[79] FAFT (n 74) 24.

[80] Ibid.

[81] 'United Nations Convention against Transnational Organized Crime and the Protocols Thereto' (*Unodc.org*) <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf> accessed 1 June 2023.

The UNTOC, adopted by General Assembly resolution 55/25 of 15 November 2000, is the main international instrument in the fight against transnational organized crime.[82] It opened for signature by Member States at a High-level Political Conference convened for that purpose in Palermo, Italy, on 12-15 December 2000 and entered into force on 29 September 2003.[83] The Convention is further supplemented by three Protocols, which target specific areas and manifestations of organized crime: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition. Countries must become parties to the Convention itself before they can become parties to any of the Protocols.[84]

The Convention represents a significant step forward in the fight against transnational organized crime, including money laundering, and signifies the recognition by Member States of the seriousness of the problems posed by it, as well as the need to foster and enhance close international cooperation to tackle those problems.[85] States that ratify this instrument commit themselves to taking a series of measures against transnational organized crime, including the creation of domestic criminal offences (participation in an organized criminal group, money laundering, corruption and obstruction of justice); the adoption of new and sweeping frameworks for extradition, mutual legal assistance and law enforcement cooperation; and the promotion of training and technical assistance for building or upgrading the necessary capacity of national authorities.[86] The United Nations Convention against Transnational Organized Crime (UNTOC) involves several specific provisions and mechanisms that contribute to the prevention, detection, and prosecution of tax evasion and money laundering.

Firstly, the UNTOC urges countries to enact effective anti-money laundering laws by calling for the criminalization of money laundering and related crimes.[87] Further, to combat transnational financial crimes, it emphasizes the significance of international cooperation among law

[82] UN Convention Against Transnational Organized Crime - The Alliance. https://crimealliance.org/events/un-processes/untoc/.
[83] Ibid.
[84] 'United Nations Convention against Transnational Organized Crime '(*United Nations : Office on Drugs and Crime*) accessed 27 May 2023
[85] Ibid.
[86] Ibid.
[87] UNTOC 2000, Article 6.

enforcement agencies by allowing mutual legal assistance, extradition, and information sharing.[88]

Secondly, the convention encourages the tracing, freezing and confiscation[89] of money laundering and tax evasion profits. It encourages countries to implement measures that make it possible to locate and recover illicit assets[90], whether they are held domestically or overseas. Thirdly, the UNTOC acknowledges the value of international cooperation[91] in preventing tax evasion and money laundering. It urges countries to assist developing countries through technical support and assistance[92] to ensure that they can enhance their capacity in preventing and successfully combating financial crimes by helping them to implement the provisions of the convention.

Lastly, it is worth mentioning some of the most notable achievements of the convention. First of all, global adoption, the UNTOC has been widely ratified, with over 190 countries becoming parties to the convention.[93] This broad participation reflects the global commitment to combating transnational organized crime, including tax evasion and money laundering. Moreover, the convention has led to the development and improvement of legal frameworks in many countries, enabling them to strengthen their anti-money laundering and anti-tax evasion measures. This has resulted in increased prosecutions and convictions related to financial crimes.

However, there are several challenges when it comes to the effectiveness and implementation of the UNTOC; the three main challenges are Variations in Implementation, Capacity Building and Evolving Nature of Financial Crimes. Despite the convention's broad adoption, there might be variations as to how different countries apply and put its provisions into practice. The issues of coordinating approaches and ensuring uniform application across jurisdictions persist.[94] Furthermore, building the necessary capacities and resources to implement the UNTOC rules effectively is difficult for many developing countries. To bridge this gap and facilitate efficient implementation globally, developed nations' technical help and assistance are essential. Lastly, the UNTOC's implementation is challenged by the ongoing evolution of money laundering and

[88] UNTOC 2000, Article 8 to 23.
[89] UNTOC 2000, Article 12.
[90] UNTOC 2000, Article 14.
[91] UNTOC 2000, Article 18 to 23.
[92] UNTOC 2000, Article 25.
[93] Ibid.
[94] Boister N, 'The Cooperation Provisions of the UN Convention against Transnational Organised Crime: A "Toolbox" Rarely Used? '(*International Criminal Law Review*, 2016) accessed 27 May 2023

tax evasion methods. To properly combat these crimes, legislative frameworks must be updated with new developments and modified as necessary.[95]

In conclusion, by highlighting the significance of internationally oriented methods and solutions, we notice an interrelated nature between tax evasion and money laundering up to this point, as the instruments adopted have been trying to fight those crimes hand by hand and not necessarily separately. By establishing standardized rules, encouraging international cooperation, and facilitating the exchange of information, international legal instruments and conventions act as important cornerstones in the fight against these financial crimes. In terms of establishing international standards and creating workable solutions to stop unlawful financial activity, the Financial Action Task Force (FATF) stands out as a crucial organization. Through its recommendations, the FATF encourages a risk-based approach, customer due diligence, financial intelligence units, international cooperation, and peer review, all of which serve to prevent, identify, and prosecute tax evasion and money laundering. On the other hand, the United Nations Convention against Transnational Organized Crime (UNTOC) further strengthens the global response by urging countries to criminalize money laundering, encourage asset tracing and confiscation, and provide technical support to enhance capacity. Despite the achievements of these legal frameworks, challenges such as variations in implementation, capacity-building needs, and the evolving nature of financial crimes still need to be addressed. Nonetheless, these instruments play a vital role in strengthening international collaboration, improving legal frameworks, and increasing prosecutions related to financial crimes. Overall, at this point, we underlined the significance of these international efforts in combating tax evasion and money laundering and fostering transparency within the international financial system.

In the forthcoming chapters, we will comprehensively analyze various international legal instruments that pertain to combatting money laundering. These instruments include the European Union Anti-Money Laundering Directives, the Egmont Group, and domestic legislation. Their primary objective is to criminalize money laundering and establish a clear connection between money laundering and tax evasion, thereby facilitating the prosecution of individuals who attempt to evade accountability for either offence.

[95] Gastrow P, 'Adopted 18 Years Ago, Why Has the Untoc Still Not Achieved Its Aim? '(*Global Initiative*, 30 April 2018) accessed 28 May 2023

Prior to delving into the intricacies of these legal instruments, it is crucial to acknowledge the challenges and opportunities that arise in the fight against tax evasion and money laundering. Particularly, we need to examine the cross-border and jurisdictional issues that legislators and politicians encounter when seeking to officially designate tax evasion as a predicate crime for money laundering. By doing so, we can explore potential recommendations to enhance existing legislation pertaining to this subject matter. Additionally, we can gain insights into the factors that impede the cohesive treatment of these crimes as a unified entity.

2.2 Challenges and Opportunities for Combating Tax Evasion and Money Laundering

2.2.1 Cross-Border Issues, Jurisdictional Challenges and Digitalization as the Answer

The prevalence of tax evasion and money laundering has crossed international borders in today's interconnected world, causing severe problems for governments, financial institutions, and regulatory agencies. The fact that these illegal operations cross international borders makes it more difficult to recognize, prevent, and prosecute them. The complexity and jurisdictional challenges involved in preventing tax evasion and money laundering internationally are examined in this section.

Tax evasion and money laundering are transnational crimes motivated by several factors. The opportunity to take advantage of variations in tax laws and financial regulations among different countries has increased as a result of globalization. Offshore tax havens with relaxed tax regulations and stringent secrecy rules have developed into attractive destinations for asset concealment and tax evasion. Complex arrangements that allow for the concealing of beneficial ownership and funds movement, such as shell corporations and offshore accounts spread across several countries, make it difficult for law enforcement to track down and expose illegal activity.[96]

On a worldwide scale, money laundering is thriving. By concealing the origins and integrating them into the legitimate financial system, criminals attempt to legitimize the proceeds of their illicit activities. The cross-border transfer of illegal cash, enabled by broad worldwide networks of banks, financial institutions, and offshore corporations, adds another degree of complexity to the money laundering process. These international networks obscure the origins and

[96] Gravelle, JG. 'Tax Havens: International Tax Avoidance and Evasion.' (*National Tax Journal*, *JSTOR* 2009), http://www.jstor.org/stable/41790645. Accessed 30 May 2023.

ownership of illegal funds, making it harder for authorities to identify and stop illicit financial movements. Money laundering concentrates on actions that are prohibited by laws from many jurisdictions, making it a transnational or cross-border crime.[97]

The cross-border nature of tax evasion and money laundering brings forth a myriad of jurisdictional challenges. The legal and operational restrictions imposed by sovereign boundaries hamper the effective investigation and prosecution of cross-border cases. The interchange of crucial intelligence, evidence, and cooperative efforts among authorities can be impeded by variations in legal frameworks, regulations, and cooperation methods among jurisdictions. The combined efforts necessary to effectively address these crimes are exacerbated by financial constraints, distinct data privacy regulations, and concerns about confidentiality.[98]

To begin with, it is important explaining the cross-border nature of both crimes. Tax evasion is not limited by national borders. Looking into cases such as the Panama Papers Scandal, it is evidenced that tax evasion can be conducted by transferring income, assets, or transactions to countries with lower tax rates or more lenient enforcement by taking advantage of cross-border variations in tax regimes. Following methods such as shell companies, trusts, and offshore accounts spread across multiple jurisdictions enable the concealment of beneficial ownership and movement of funds, making detection and investigation challenging as was seen in the aforementioned case of the Panama Papers.[99]

On the other hand, banks, financial institutions, and offshore corporations are only a few of the extensive worldwide networks that facilitate money laundering. These networks make it easier for illegal cash to flow around and be layered, to blur their ownership and origins. Money launderers take advantage of regional differences in regulatory and legal systems. To make it simpler to conceal and launder illicit money, they can look for states with inadequate anti-money laundering laws and regulations, poor enforcement, or little international cooperation.[100] Money launderers are enhancing their efficiency, complexity, and profitability as a result of globalization. It has also made it easier to set up and shut down money laundering networks since new financial instruments, trading opportunities, and financial market liquidity

[97] Amrani H and Ali M, 'A New Criminal Jurisdiction to Combat Cross-Border Money Laundering '(*Journal of Money Laundering Control*, 18 August 2021) accessed 31 May 2023.
[98] Ibid.
[99] Fernando and Antoine (n 51).
[100] Keatinge T, 'We Cannot Fight Cross-Border Money Laundering with Local Tools '(*Subscribe to read | Financial Times*, 9 September 2018) accessed 31 May 2023.

have been created. The related transaction costs of money laundering have decreased due to increased competition across borders. Money laundering tends to distribute illicit funds throughout the world to escape national laws, with the tainted money flowing to nations with less rigorous controls. Additionally, as a result of enhanced communication among money launderers and their ability to spread transactions across more countries, there are now more potential legal obstacles that might be put in the way of investigations. Law enforcement and regulatory agencies are also interested in underground or parallel banking systems.[101] Lastly, criminals frequently manipulate international trade transactions to hide the flow of money and legalize their unlawful income. To enable money laundering across borders or escape taxation, they over- or under-invoice for products and services, utilize false documents, or set up fictitious trading businesses according to their motives. [102]

After explaining the cross-border nature of these two financial crimes, we need to understand the challenges faced when addressing these crimes across borders. Some of the main jurisdictional challenges that complicate the effective enforcement of tax laws and the prosecution of offenders include sovereign boundaries, variations in tax laws, complex international structures, lack of international cooperation, data privacy and confidentiality concerns, limited resources and capacity and legal obstacles.

In tackling cross-border tax evasion, tax authorities will undoubtedly request help from their counterparts in the off-shore jurisdiction to trace down assets and match them to their tax evaders. Recognizing their shared interest in preventing tax evasion, countries have historically attempted to address this need through the machinery of bilateral agreements, such as double taxation agreements with provisions for the exchange of taxpayer information or Tax Information Exchange Agreements (TIEAS)[103], in either case, modelled on either on Article 26 of the Organization of Economic Cooperation and Development (OECD) Model Tax Convention on Income and Capital (OECD Model Tax Convention), with the Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention) providing an alternative, multilateral, basis for such exchanges. However, in recent years, an emergent international consensus prescribing greater transparency and international cooperation in tax matters to

[101] Buchanan B, 'Money Laundering-a Global Obstacle '(*Research in International Business and Finance*, 22 September 2004) accessed 31 May 2023.
[102] Gravelle (n 95).
[103] See more one: <https://www.oecd.org/ctp/exchange-of-tax-information/2082215.pdf>.

counter tax evasion has viewed the traditional arrangements for exchange of tax information as insufficient.[104]

When it comes to sovereign boundaries, each country has its own legal framework, tax laws, and enforcement mechanisms. The sovereignty of states creates a barrier to cross-jurisdictional collaboration and information exchange. Sovereignty-based arguments frequently emerge in tax debates, discussions, assessments, and commentary as governments examine how far they should collaborate, coordinate, or comply with the views of other states. Nations assert tax sovereignty because they want to control revenue and fiscal policy. Four important norms are at stake as nations struggle to claim or maintain tax sovereignty: (1) democratic accountability, (2) democratic legitimacy, (3) local control/multiple sovereigns, and (4) competing exercises of sovereign state power. The first two points reflect the importance of certain democratic measures and systems for states whose own legitimacy is based on democratic rule. The third point considers what would be desirable even if democracy concerns could be eliminated, and the final point considers the normative problem created when there are competing sovereignty claims. [105] This conflict and question of sovereignty between different states create obvious hurdles when it comes to establishing uniform tax laws to combat tax evasion on an international level since disagreements and sovereignty questions arise that realistically cannot satisfy every nation that is a member in conventions such as the OECD, FAFT etc.

Furthermore, as with international law in general, variations in tax laws create a conflict when it comes to determining the appropriate jurisdiction for taxation and enforcement actions. Tax evaders take advantage of these variations by transferring income, assets, or transactions to countries with lower tax rates or more lenient enforcement. [106]

Moreover, as was noted when we discussed the FAFT and UNTOC recommendations and regulations, cooperation and information sharing between countries are vital for combating international tax evasion effectively. However, differences in legal frameworks, regulations, and cooperation methods among jurisdictions can hinder international cooperation efforts. Some

[104] Obadina DA, 'Confronting the Problem of Cross-Border Tax Evasion in an Era of Greater Global Transparency of Tax Relevant Information: The Case of Nigeria '(*Journal of Money Laundering Control*, 3 October 2016) accessed 31 May 2023.
[105] Ring D, 'The Role of Sovereignty in International Tax '(*Boston College Law School*, October 2022) accessed 31 May 2023.
[106] Fernando Antoine (n 51).

jurisdictions may have limited resources, inadequate enforcement capabilities, or a lack of political will to cooperate fully in addressing tax evasion.[107]

While political and economic concerns such as globalization, money laundering, and terrorism have raised the need for cross-border tax information, technological advancements have decreased the cost and thus expanded the potential supply of this information. The capacity of tax authorities to gather, use and reveal tax information on a worldwide scale has been made possible by the digitalization of tax records, the keeping of these records inside databases, and the transmission of records through information technology ("IT") networks. However, tax information—which includes a taxpayer's income and personal circumstances—is a particularly sensitive type of personal information and can be used to create a thorough profile of a person's identity, including their political and religious views.[108] As a result, jurisdictions often have distinct data privacy regulations and concerns about confidentiality which raises the question of striking a balance between effective enforcement and safeguarding individual privacy rights creating jurisdictional challenges.

Following when it comes to combating money laundering, several jurisdictional challenges complicate efforts to detect, prevent, and prosecute this illicit activity across borders as well. Such challenges may include fragmented legal frameworks, jurisdictional competition, cross-border movement of funds, variations in customer due diligence requirements, limited information sharing, resource constraints and complex legal procedures. We have encountered similar challenges in addressing the issue of tax evasion, and thus it is pertinent to concentrate on the specific obstacles that arise in the context of combating money laundering.

Firstly, different jurisdictions may have different definitions of money laundering, different elements of the offense, and different punishments. This may make it difficult to coordinate enforcement efforts and harmonize legal frameworks. Within the framework of the definition, there is also the question as to whether money laundering is a primary or secondary offence since it is identical to concealment and can often be argued to go hand in hand with tax evasion, which varies according to the jurisdiction in question.

---

107 Boister (n 93).

108 Cockfield AJ, 'Protecting Taxpayer Privacy Rights under Enhanced Cross-Border Tax Information Exchange: Toward a Multilateral Taxpayer Bill of Rights' [2008] SSRN Electronic Journal <https://papers.ssrn.com/abstract=1356841> accessed 1 June 2023.

The first opinion contends that hiding illegal money is only done to prevent arrest. According to Pinto and Chevalier (2006), it also presupposes that there are no additional legally protected interests in the laundering offence beyond those that already existed in the primary act. Ne bis in idem, which prohibits the use of two crimes for a single conduct, is another justification for this (Pinto and Chevalier, 2006; Maugeri, 2018). As a result, this perspective is based on the supposition that money laundering is still an unpunished secondary crime. This is due to the fact that the behavior is seen as a co-penalized act, meaning that the primary offence's punishment already includes a penalty for money laundering (Pinto and Chevalier, 2006). [109]

According to the second opinion, there is a difference between the primary offence and the laundering offence. It is therefore conceivable to penalize the laundering as a distinct offence and is accordingly individually punished, in contrast to the previous perspective. This view contends that money laundering and the primary crime have distinct protected interests (Pinto and Chevalier, 2006; Al-Rawashdeh, 2020). The national and international economic system and the administration of justice are interested in preventing money laundering. This viewpoint is shared by numerous countries and legal instruments. For instance, even when the primary offence is committed abroad, Switzerland prosecutes cases of money laundering that occur there (Kohler, 1990; Ferwerda and Reuter, 2019). They believe that anyone who converts or transfers illicit funds to hide their origin from illegal activities is engaging in money laundering. Due to the separation of the laundering offence from the primary crime, a cumulative sentence is possible.[110]

Within jurisdictional competition and varying legal frameworks, money launderers frequently take advantage of the competition among jurisdictions by looking for countries with inadequate anti-money laundering (AML) laws, poor enforcement, or insufficient international cooperation. It may be challenging to hold criminals responsible and recover illegal proceeds in some jurisdictions because they might provide an environment that encourages money laundering operations. However, as witnessed in the UK, governments are trying by acknowledging which countries create the necessary environment for money laundering to flourish to impose greater control when it comes to doing business with businesses established in high-risk countries, for example, the Money Laundering, Terrorist Financing and Transfer of Funds (Information on

[109] Amrani and Ali (n 96).
[110] Amrani and Ali (n 96).

the Payer) Regulations 2017 has provided a list of high-risk countries[111] that facilitate money laundering operations.[112]

Another issue is raised with variations in customer due diligence requirements. These requirements apply to any business involved in consumer interactions, as they are obligated to adhere to "Know Your Customer" (KYC) and anti-money laundering (AML) regulations for conducting customer due diligence (CDD). The primary objective of these measures is to prevent financial crime and identify potential risks from conducting business with specific clientele. Customer due diligence encompasses various forms, such as enhanced due diligence, simplified due diligence and ongoing due diligence.[113]

In the case of money laundering and financial crimes, these requirements can be categorized as AML Due Diligence and Enhanced Due Diligence (EDD). AML due diligence refers to a broad range of processes and measures that financial institutions and companies use to detect, prevent, and report money laundering and other illegal activity. It involves carrying out CDD and transaction monitoring in addition to implementing policies, procedures, and controls for recognizing and assessing consumer risk. On the other hand, in circumstances when there is a greater danger of money laundering, terrorist funding, or other financial crimes, EDD is a specialized variant of CDD that is applied. It demands an in-depth examination of a customer's background, source of wealth, and transaction history. EDD may be triggered for clients or ongoing transactions that are deemed higher risk by a financial institution.[114]

However, there are some obstacles when it comes to applying those requirements uniformly around the world. Due to the complexity and diversity of the regulations that govern financial institutions, regulatory compliance is one of the most significant issues in EDD. Some crucial aspects include variation, changes and interpretation in regulation. Another significant problem in adopting EDD measures is combining the need for efficiency with the necessity to undertake detailed risk assessments. Organizations need to figure out how to streamline their operations and stop money laundering. Furthermore, due to the complexity and opacity of contemporary corporate structures, Ultimate Beneficial Ownership (UBO) presents a substantial issue for

[111] The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, sch 3ZA.
[112] *The money laundering, terrorist financing and transfer of funds ...*) <https://www.legislation.gov.uk/uksi/2017/692/pdfs/uksiem_20170692_en.pdf> accessed 2 June 2023.
[113] Onfido, 'Customer Due Diligence: What It Is and How It Works '(*Onfido*, 8 February 2023) accessed 1 June 2023.
[114]' Enhanced Due Diligence: Insights & Challenges '(*ComplyCube*, 25 May 2023) accessed 2 June 2023.

EDD. Moreover, verifiable adverse media searches are a crucial part of the EDD processes. Effective risk management is facilitated by robust adverse media screening, which reveals unfavorable material from reliable sources. Manually doing searches is ineffective, time-consuming, and prone to biases and human error, lowering the findings' quality and dependability. For organizations with significant volumes, it is also neither scalable nor cost-effective. A major challenge in the EDD process is protecting the privacy and security of customer data, as it entails the collection and storage of sensitive personal and financial information. To protect customer data and stop unauthorized access or breaches, businesses must have strict data security policies. As we noted earlier, the FATF recommends adopting a risk-based approach for EDD. However, it is challenging to keep informed of the shifting risk landscape and modify the risk-based approach since criminals regularly develop new strategies to get beyond current AML/CTF regulations.[115]

To all of these concerns, recent development aims to give a solution. Digitalization can play a significant role in combating cross-border tax evasion and money laundering by enhancing transparency, efficiency, and data analysis capabilities. Digitalization—the integration in everyday life of digital technologies that facilitate the availability and processing of more reliable, timely, and accurate information—presents an important opportunity for fiscal policy since both expenditure and tax policies depend crucially on information about economic actors. However, relevant and reliable information is not always available or easy to use, constraining the design, implementation, and evaluation of tax and spending policies. Digitalization can improve tax compliance by enhancing operational efficiency and the quality of information in trade transactions. Digital information facilitates the collection of authentic, accurate and complete information about traded goods, enhancing the ability of border agents to collect the appropriate level of trade taxes. [116]

To begin with, digitalization enables countries to exchange financial information automatically and efficiently. Financial organizations can exchange information with tax authorities across international boundaries via initiatives like the Common Reporting Standard (CRS)[117] and the

[115] Ibid.
[116] Kitsios E, Jalles JT and Verdier G, 'Tax Evasion from Cross-Border Fraud: Does Digitalization Make a Difference? '(*IMF*, 13 November 2020) <https://www.imf.org/en/Publications/WP/Issues/2020/11/13/Tax-Evasion-from-Cross-Border-Fraud-Does-Digitalization-Make-a-Difference-49857> accessed 15 June 2023.
[117] <https://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>

Automatic Exchange of Information (AEOI)[118]. This renders it simpler to uncover offshore accounts and unreported revenue, lowering the potential for tax evasion.[119]

Furthermore, digital tools can analyse massive volumes of data rapidly and correctly. Tax authorities can find patterns and anomalies and consider transactions that point to tax evasion and money laundering by using sophisticated analytics, machine learning, and artificial intelligence. These methods enable concentrated investigations and risk profiling to be more effective. In addition to this, digital platforms and online reporting tools make it easier to file tax returns and financial data. Authorities may get more accurate and timely data by requiring that companies and individuals provide electronic records. This lessens the possibility of underreporting income or concealing assets abroad, making it more difficult for tax evaders and money launderers to do their business. Blockchain, a decentralized and transparent ledger technology, can improve the accountability and traceability of financial transactions. Authorities can follow the flow of money across borders by using blockchain technology, making it more difficult to hide the origins or destinations of money used in illegal operations. [120] Global tax authorities and financial institutions may cooperate and share information more easily due to digital platforms. Secure communication channels enable countries to work together in real-time, share strategies that work, and synchronize initiatives to combat tax evasion and money laundering successfully.

Although digitization has many advantages, it also causes data privacy and cybersecurity concerns. To secure sensitive information and stop unauthorized access, governments and financial institutions must make sure that strong security measures are in place. [121] In order to preserve confidence in digital systems, strong encryption, secure networks, and strict data protection laws are necessary. It's crucial to remember that digitization is not an all-encompassing solution on its own. Effective implementation requires international cooperation, updated legislation, and ongoing adaptability to emerging technology breakthroughs.

In conclusion, governments, financial institutions, and regulatory agencies face substantial difficulties as a result of the prevalence of tax evasion and money laundering as global crimes.

---

118 <https://www.oecd.org/tax/automatic-exchange/>.
119 Kitsios, Jalles and Verdier (n 115).
120 Bodescu CN, Achim MV and Rus AID, 'The Influence of Digital Technology in Combating Money Laundering '(*24th RSEP International Conference on Economics, Finance & Business – Virtual/Online*, 24 February 2022) <https://www.fincrime.net/storage/app/uploads/public/622/4fa/752/6224fa7522af1277783540.pdf> accessed 15 June 2023.
121 Ibid.

These unlawful enterprises' transnational character makes identifying, stopping, and prosecuting them difficult. The globalized world has made it possible to evade taxes by exploiting differences in tax laws and financial regulations between various nations, notably by using offshore tax havens and intricate structures like shell companies and offshore accounts. On the other hand, money laundering flourishes by hiding the sources of illegal funds and integrating them into the legal financial system, made possible through global networks of banks, financial institutions, and offshore companies.

The jurisdictional challenges involved with combating cross-border tax evasion and money laundering are various. Legal and operational restrictions brought forth by sovereign boundaries prevent efficient investigation and prosecution. The efforts to harmonize legal frameworks and coordinate enforcement actions are further complicated by differences in tax laws and money laundering definitions between jurisdictions. Additional challenges include a lack of global coordination, limited expertise and resources, and concerns about data protection and confidentiality. Additionally, the necessity for effective but thorough risk assessments as well as the complexity and opacity of company structures make it difficult to establish uniform regulations for preventing money laundering.

In order to address these challenges, increased international cooperation, harmonization of legislative frameworks, and the implementation of practical measures to encourage transparency and information exchange are required. The battle against tax evasion can be facilitated by strengthening bilateral and multilateral agreements for the exchange of taxpayer information and by expanding the capability of tax authorities to gather and analyze data globally. Similarly, it is critical to encourage international cooperation in enforcing anti-money laundering legislation, standardizing the components of money laundering offences, and making it easier for governments to share information and evidence. In this battle against those financial crimes, digitalization can help both by making the gathering of information more accessible and providing channels of international cooperation through digital platforms.

Governments, financial institutions, and regulatory agencies must cooperate, overcome jurisdictional challenges, and establish strong legislative frameworks and enforcement mechanisms in place to successfully combat tax evasion and money laundering across borders. The international community can significantly advance in preventing and prosecuting these illegal actions, preserving the integrity of financial systems, and defending the interests across countries and individuals by tackling these issues and strengthening cooperation internationally.

3. Comparative Analysis

3.1 Comparative Analysis of Legal Frameworks on Tax Evasion as a Predicate Crime for Money Laundering

Building on our research on the increase of tax evasion and money laundering, as well as the historical perspective on taxes and tax resistance, we now move on to the following chapter, which focuses on conducting a comparative analysis of different legal frameworks. The previous chapters covered an extensive literature review, exploring the legal background surrounding these financial crimes and highlighting international legal instruments and conventions.

Additionally, they examined the challenges and possibilities in preventing tax evasion and money laundering, devoting special attention to cross-border issues, jurisdictional challenges, and the contribution of digitization and the role of digitalization in addressing these concerns.

With this solid foundation in place, we proceed to examine the comparative analysis of legal frameworks pertaining to tax evasion as a predicate crime for money laundering. More specifically, we seek to point out how different legislation treats this relationship between tax evasion and money laundering, how effective their legal frameworks around this issue are, and what we can take from each jurisdiction to create the ''ideal'' prevention mechanism for those financial crimes.

3.1.1 Analysis of the Legal Framework in the EU

The European Union has been actively working to combat tax evasion and money laundering by implementing various legal frameworks and directives. The competence of the EU in tax matters is derived from the Treaty on the Functioning of the European Union 2012 (TFEU), the Treaty of the European Union 2012 (TEU) and secondary legislation as delegated to the EU by these treaties as well as the European Convention on Human Rights 1950 as stipulated by the Lisbon Treaty 2007. Therefore, EU tax law refers to the legal provisions in the aforementioned instruments that could mount some effects on taxation 85 in the Union. In particular, the legal framework of taxation in the EU is founded on Articles 110-113 of the TFEU.

However, since the EU cannot impose its tax laws on Member States, it has to be recognized that even in the absence of greater legal force, the OECD's ten global principles have a substantial virtuous and normative prominence among its members. For the purposes of legal analysis, the OECD's tax measures, which have been identified to be effective, will best resonate well in the EU if such measures are codified in the EU legal framework or drafted into the EU tax system. The same can be said with regards to the FATF Recommendations, which have been transposed into the EU acquis by a series of Anti-Money Laundering (AML) Directives, including the Fifth (Directive (EU) 2018/843) and Sixth (Directive (EU) 2018/1673) AMLDs.[122]

One significant aspect that the EU has tried to discuss and tackle is the inclusion of tax evasion as a predicate crime for money laundering offences. The EU Member States have taken steps to align their legislation with the EU directives to ensure a harmonized approach to addressing these issues. Tax avoidance and evasion are increasingly recognized as critical global issues because they make it harder for governments to gather the revenues they require for their coffers. For instance, according to current estimates, the tax gap in the European Union might be as high as €825 billion per year based on 2015 (Murphy, 2019). Governments now require an increasing number of tools to combat the negative impacts of tax evasion nationwide as well as worldwide as a result of this phenomenon. One of the most contentious and appealing possibilities is to combat tax evasion through the instruments of an already well-known global crime: money laundering.[123]

To understand the process, it is crucial to comprehend one key concept in the fight against money laundering, the concept of predicate crimes. The concept of predicate offences comes from American law, much like other advances in money laundering legislation, "a predicate offence is the underlying criminal offence that gave rise to the criminal proceeds which are the subject of a money laundering charge" (Bell, 2003 p.137)[124] As money laundering is the use of criminal proceeds, the predicate crime is the crime that generates the profits. Although the first predicate offence was drug trafficking, by the mid-'90s, the definition of predicate offence

[122] Turksen U, 'Countering Tax Crime in the European Union: Benchmarking the OECD's Ten Global Principles' (Hart Publishing 2022).
[123] Rossel L, Bachelor J and Koningsveld J van, 'Working Paper-D6 Tax Crimes as a Predicate Crime for Money Laundering '(*COFFERS EU Horizon 2020 Project*, 2020) <http://coffers.eu/wp-content/uploads/2019/11/D6.8-Working-Paper.pdf> accessed 16 June 2023.
[124] Rossel, Bachelor and Koningsveld (n 122) 9.

broadened, and so the scope of AML measures expanded significantly. Perhaps the most 'politically sensitive 'or the 'key area of dispute 'has been whether tax offences should be a predicate offence for money laundering charges. However, given that tax offences are done today on a global scale and cause significant damage everywhere, it seemed necessary to include them. This considering especially that tax offences are in many jurisdictions a 'loophole 'in their money laundering legislation.[125]

The fight against tax evasion is using money laundering as a vital instrument more and more. Tax evasion and money laundering eventually merged since both criminal groups used offshore companies to conceal their identities and business operations. In 2012 the FATF (Financial Action Tax Force) amended its recommendations and included tax evasion as a designated offense for money laundering. Following the direction of the FATF, in 2015, the 4th Anti-Money Laundering Directive[126] incorporated this principle by adding tax crimes as a predicate crime for money laundering. [127] However, the 4th AMLD did not offer a harmonized definition of tax crimes; hence it was left up to each member state to incorporate this principle, as they saw fit, in their national law.[128] Furthermore, the EU directives, specifically proposals such as the one in 2016 for a "Directive of the European Parliament and of the Council on Countering Money Laundering by Criminal Law", where it is clearly stated that the differences in the EU legal frameworks can be exploited by criminals wherever they perceive AML to be the weakest, aim to harmonize the definitions and elements of money laundering offences across Member States. The importance of harmonization of the definitions of the two crimes and of analyzing the heterogeneity of tax evasion definitions and their connection to money laundering legislation across the EU is relevant academically since, to the best of our knowledge, it has not been done systematically before. As we noticed with the Directive proposal, it is also relevant from a practical policy perspective. Furthermore, the differences in the definitions, scope and sanctions of ML can also affect the cooperation between different actors within the tax implementation ecosystem; this is supported by a survey in which Europol and Eurojust identified the

[125] Rossel L and others, 'The Implications of Making Tax Crimes a Predicate Crime for Money Laundering in the EU Building a Legal Dataset of Tax Crimes and Money Laundering in the European Union ' (*Academic.oup.com*, February 2021) <https://academic.oup.com/book/39754/chapter/339818508> accessed 17 June 2023

[126] Decision 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

[127] Ibid.

[128] Rossel and others (n 124).

differences in the criminalization of ML in the Member States as a clear obstacle for co-operation and cross-border investigation. This shows that harmonizing the definitions would ensure consistency and render cross-border investigations more cooperative.[129]

The FATF and the EU are not alone in their efforts to incorporate tax evasion into money laundering regulation and legislation. The G-20 and the OECD have also had their eye on the fight against tax evasion to ensure a fairer tax system. A clear example of this is the inclusion by the OECD in their 2007 report titled *Fighting Tax Crime: The Ten Global Principles* of Principle 1, which states explicitly that 'Jurisdictions should have the legal framework in place to ensure that violations of tax law are included as a criminal offence and that effective sanctions apply in practice.[130]'

According to EU regulations, Member States must implement effective, reasonable, and punitive penalties for all types of tax evasion offences, including those involving money laundering. Penalties might take the form of imprisonment, fines, or both. The directives attempt to establish a degree of uniformity to discourage and punish such offences, notwithstanding the fact that the severity of sanctions differs among Member States. It is essential to consider the lowest and maximum ranges of penalties while analysing the variety of punishments. On the one hand, these variations may encourage forum shopping among the member states, which means that criminals may decide to concentrate their activities in the countries with the least severe sanctions. Criminals may not only choose different locations but also take advantage of the variations in legal systems. However, these variations may also reflect how seriously certain crimes are regarded in different member states for political, historical, or economic reasons.[131] The 4th AMLD requires that tax crimes must be punished with a maximum penalty of over one year. On average, the minimum prison time across the EU is 1.3 years, and the average maximum prison time is seven years. The Financial Secrecy Index[132] analyses the patterns of penalties for tax crimes in light of two key variables: avoiding the promotion of tax evasion and administrative capacity. The indicator of 'avoids promotion of tax evasion 'assesses whether or not a jurisdiction facilitates tax evasion. The administrative capacity indicator considers the ability of a jurisdiction's tax authority to collect and process data for investigating and taxing those who can escape their tax duties.[133]

[129] Rossel and others (n 124).
130 Rossel and others (n 124) 243.
[131] Rossel and others (n 124) 248.
[132] https://www.financialsecrecyindex.com/
[133]Rossel and others (n 124) 248.

Within the EU, there are three countries with notably low maximum penalties for tax crimes: Malta (with a six-month maximum penalty), Liechtenstein (with a two-year maximum sentence), and Finland (with a four-year maximum penalty). Interestingly, Malta and Liechtenstein rank highly on the Financial Secrecy Index for facilitating tax evasion. However, Finland's low ranking is likely due to a historical move away from punitive legal measures such as imprisonment. Conversely, Austria, Croatia, Czechia, Germany, Greece, Hungary, Slovakia, and Slovenia all have high maximum penalties, ranging from ten to twelve years of imprisonment for tax crimes. Except for Czechia and Slovakia, these countries rank relatively low in the facilitation of tax evasion. Additionally, ten EU jurisdictions rank highly on promoting tax evasion according to the FSI, but only Czechia and Slovakia have high minimum prison times.[134]

As for money laundering, the role of prison sentences is both deterrent and punitive. The lowest minimum prison time is zero, while the highest is twelve. Regarding maximum prison time, the spectrum ranges from five to twenty years. Many countries have multiple money laundering articles, each with its criminalization and punishment. It's worth noting that Slovenia, Malta, and Bulgaria have some of the strictest penalties for money laundering, carrying a maximum sentence of 20, 18, and 15 years respectively.[135]

On the other hand, Luxembourg, Liechtenstein, Germany, and Belgium have a maximum penalty of only five years for money laundering, which is comparatively less severe. However, it's important to note that these four countries need more robust tax administrative capabilities, which makes it challenging to identify tax evasion and report serious crimes such as money laundering.[136] There is a general consensus that Luxembourg and Liechtenstein have been linked to tax evasion. To address this issue, the European Parliament and Council came to an agreement in 2018 to establish uniform anti-money laundering regulations throughout the EU. This agreement stipulated a minimum penalty for certain offences, including money laundering. While the maximum recommended punishment for money laundering was four years of imprisonment, only Italy, Bulgaria, and Slovakia have implemented this guideline thus far. As a result, several countries will need to increase their minimum penalties to comply with this obligation considerably. [137]

[134] Ibid 251.
[135] Ibid 253.
[136] Ibid 253.
[137] Ibid 254.

The severity of a crime is often reflected in the penalties imposed, and a country's cultural values can influence this. Our research shows that countries with a higher incidence of tax evasion, as determined by the FSI, tend to impose less severe penalties for this offence compared to those that do not. However, it's important to note that with the implementation of the 4th AMLD, tax crimes are now considered a predicate offense for money laundering. Therefore, a comprehensive analysis should consider both perspectives. There are three types of jurisdictions: those that consider money laundering 'worse 'than tax crimes, those that view it as equal and those who consider it less. In the first category, we have 16 countries; Bulgaria, Cyprus, Estonia, Finland, France, Italy, Latvia, Lichtenstein, Lithuania, Malta, the Netherlands, Poland, Portugal, Romania, and Slovakia. There are seven countries in the second category of countries that punish them with an equal maximum: Austria, Belgium, Denmark, Greece, Luxembourg, Spain, and Sweden. Lastly, there are six countries that have higher available punishments for tax crimes than money laundering; Croatia, Czechia, Germany, Hungary, Romania, and Slovenia.[138]

Incorporating tax crimes as a predicate for money laundering can benefit countries with harsher punishments for money laundering than tax crimes or those that can combine the sentences for both offences. This allows for stricter penalties and better deterrence. Recidivism is prevalent in white-collar crimes like tax crimes, mainly due to the lack of severity in sentencing and punishment. Therefore, having harsher penalties available can discourage potential tax criminals.[139] The implementation of the rule that tax crimes are a predicate crime for money laundering is a historic step in the fight against tax evasion.

Recently, the European Union released a diagram showcasing its efforts to combat tax evasion and money laundering. The diagram reveals that the EU, via the European Banking Authority, establishes regulations for overseeing financial institutions and detecting violations of EU legislation. The EU is dedicated to fostering cooperation and exchanging information among member states to enhance the identification and examination of incidents of tax evasion and money laundering. The European Union's Tax Information Exchange System (EUTIXS)[140] and the collaboration between tax authorities under the Automatic Exchange of Information

[138] Ibid 254-256.

[139] Ibid 256.

[140] European Court of Auditors, '*Special report no 03/2021: Exchanging tax information in the EU: SOLID ...*' <https://www.eca.europa.eu/lists/ecadocuments/sr21_03/sr_exchange_tax_inform_en.pdf> accessed 20 June 2023.

(AEOI) are two initiatives that have bolstered cross-border collaboration. AEOI enables countries to exchange information without requesting it, and this framework has positively impacted international cooperation.[141] In addition, EU directives underline the significance of collaboration and sharing of information between the financial intelligence units (FIUs) and other competent authorities of Member States. This enables the exchange of relevant information, financial records, and intelligence to aid investigations into money laundering and tax evasion cases. The EU directives have improved coordination among Member States in combating money laundering and tax evasion, which involves setting up centralized registers for beneficial ownership information, promoting cooperation among FIUs, and implementing risk-based strategies to identify high-risk transactions and jurisdictions.[142]

Recently, the European Court of Justice ruled (Joined Cases C-37/20 and C-601/20 - WM and Sovim SA v Luxembourg Business Registers), highlighting the importance of addressing uncertainty. The ruling emphasized that the public's access to information on beneficial ownership (as outlined in the EU's anti-money laundering directive) could interfere with fundamental rights to privacy and personal data protection, as outlined in the Charter of Fundamental Rights of the European Union. The CJEU has highlighted that the EU legislature did not achieve a proper balance between the prevention of money laundering/terrorist funding and the protection of personal data. This ruling necessitates reviewing the implementation of the 5th AMLD by all national legislatures, considering the concerns raised by the case in Luxembourg. As a result, access to beneficial owner registers will be limited in Luxembourg and the Netherlands for the time being.

In summary, although EU directives establish a foundation for fighting tax evasion as a predicate to money laundering, how these measures are implemented and enforced can differ among Member States. The ongoing challenges include coordinating legal frameworks, ensuring consistent enforcement, and strengthening cooperation mechanisms. It's worth noting that the EU recognizes tax evasion as a predicate to money laundering and has put legal frameworks and directives in place to combat these offences. Adding tax evasion, the EU's efforts to stop illegal funds from tax crimes being laundered and integrated into the legitimate financial system are strengthened. However, continued collaboration, effective implementation, and regular updates

[141] '*What is Automatic Exchange of Information (AEOI)?*' <https://www.revenue.ie/en/companies-and-charities/international-tax/aeoi/what-is-aeoi.aspx> accessed 20 June 2023.

[142] European Commission, '*Preventing money laundering and terrorist financing across the EU – how does it work in practice*' <https://finance.ec.europa.eu/system/files/2018-07/diagram_aml_2018.07_ok.pdf> accessed 20 June 2023.

to adapt to changing challenges and other critical aspects of EU law, such as data protection, as we noticed in the CJEU ruling, are crucial for effectively tackling the cross-border nature of tax evasion and money laundering in the EU.

3.1.2 Analysis of the Legal Framework in the UK

As previously discussed, tax evasion and money laundering are interrelated financial crimes that pose considerable difficulties for governments and undermine the credibility of financial systems. Recognizing the need to address these issues, the United Kingdom has taken necessary measures to tackle tax evasion and money laundering issues. They have established a solid legal framework to combat such activities and prevent the illegal proceeds from being laundered through different channels.

The United Kingdom has been at the forefront of global efforts to combat financial crimes, such as tax evasion and money laundering. The legal framework surrounding these offences in the country is complex, involving both domestic laws, international agreements, and collaboration with international organizations. The ultimate goal is to establish a comprehensive system that discourages, identifies, and punishes individuals and groups involved in tax evasion and the subsequent laundering of illicit funds.

Tax evasion is a serious offence that can result in criminal charges and severe penalties. Unfortunately, tax evasion has become increasingly prevalent in the UK, despite the country's strong economy and financial growth. High-profile companies like Google, Amazon, Starbucks, and Apple have all been implicated in tax evasion scandals, turning the UK into a tax haven that cheats itself. This problem's root cause lies in the tax system's loopholes. Shockingly, up to 90% of tax goes uncollected due to a lack of resources to investigate suspicious cases.[143]

Additionally, the government has made errors that have resulted in a doubling of written-off tax debt. Both the previous Labour government and the current administration have struggled to tackle tax loopholes, with initiatives like the patent box and controlled foreign companies management system being seen as vehicles for tax avoidance. Ultimately, companies are motivated by profit, which can lead them to avoid paying taxes.

143 'Tax Evasion in the UK | Essay' (UKEssays.com, June 2023) <https://www.ukessays.com/essays/economics/tax-evasion-uk-6313.php?vref=1> accessed 21 June 2023.

The tax system is also flawed, making it possible for companies to avoid paying their fair share.[144] However, it is worth noting that the UK is a hub for global foreign exchange trading, handling 41% of the market and 17% of the total global value of international bank lending. Unfortunately, this has also made it an attractive destination for money launderers.[145] Several factors make the UK an attractive destination. One of these is the size of its financial and professional services sector. Additionally, the London property market has proven to be a popular choice among overseas investors. Another appealing aspect is the country's open economy.[146]

Understanding the severity and prevalence of money laundering is challenging, as accurately determining its monetary volume and seriousness is difficult.[147] However, rough estimates can provide some insight into the scale of the issue.[148] According to the International Monetary Fund (IMF), United Nations (UN), and Financial Action Task Force (FATF), the global amount of money laundered annually is equivalent to 2-5% of the world's GDP,[149] which is estimated to be between $800 billion to $2 trillion.[150] The United Nations Office on Drugs and Crime (UNODC) reported that 2009 criminal proceeds amounted to 3.6% of the world's GDP, with $1.6 trillion (2.7%) being laundered.[151]

Despite continuous tax reforms, the British tax system still has loopholes that companies exploit to evade taxes. This practice leads to the emergence of a shadow economy, which poses challenges to control and creates competition for legitimate businesses. Furthermore, multinational corporations often engage in income shifting by exploiting tax system loopholes to move their income to low-tax jurisdictions, giving them an unfair advantage over others. The balance between taxation and investment is constantly disrupted by corruption among entrepreneurs and government expropriation of private resources. These factors have caused the loopholes in the tax system to expand and become more prevalent.[152]

---

[144] 'Tax Evasion in the UK | Essay' Ibid.
[145] Home Office and HM Treasury, 'Action Plan for anti-money laundering and counter-terrorist finance '(Home Office and HM Treasury 2016) 7 accessed 22 June 2023.
[146] National Crime Agency, 'National Strategic Assessment of Serious and Organised Crime 2015 '(National Crime Agency 2015) para 72 accessed 22 June 2023.
[147] Jeffrey Robinson, 'The Laundrymen: Inside the World's Third Largest Business' (Pocket Books 1998) 4 accessed 22 June 2023.
[148] FATF, 'FAQ 'accessed 22 June 2023.
[149] Michel Camdessus, 'Money Laundering: The Importance of International Countermeasures '(IMF, 10 February 1998) accessed 22 June 2023.
[150] United Nations Office on Drugs and Crime, 'Money-Laundering and Globalization 'accessed 22 June 2023.
[151] United Nations Office on Drugs and Crime 'Illicit money: how much is out there? 'accessed 22 June 2023.
[152] 'Tax Evasion in the UK | Essay' ibid.

Additionally, tax cuts that primarily benefit the wealthy have a considerable effect on larger corporations since they are able to save significantly more money than their smaller counterparts. When these companies face higher tax rates, they may resort to tax avoidance measures in order to reduce their financial burden and preserve their profits. In addition, certain executives within these corporations believe that the government fails to offer concrete advantages or worthwhile returns in exchange for their tax payments. They view their contributions as squandered and instead opt to distribute their resources towards philanthropic endeavours, which they perceive to generate more significant societal impact and enhance their company's reputation. Many big British companies believe it is unjust for the government to impose double taxation, causing them to protest against paying taxes.[153]

The United Kingdom has implemented robust legal frameworks to combat tax evasion as a predicate crime for money laundering. The purpose of these frameworks is to conform to global standards and combat the illegal nature of activities that cross national borders. In order to prevent, identify, and prosecute cases of tax evasion and money laundering, the legal framework in the UK comprises multiple laws, regulations, and guidelines that function together.
Regarding tax-related crimes, the responsible authorities for investigation are usually His Majesty's Revenue and Customs (HMRC) and the National Crime Agency (NCA). In England and Wales, HMRC investigates corporate offences, and the Crown Prosecution Service (CPS) handles their prosecution. The Serious Fraud Office (SFO) or NCA conducts investigations for foreign tax evasion offences, and the SFO or CPS is responsible for prosecution.[154] Many people believe that tax evasion is not a severe crime but simply a way to avoid paying taxes to the government. It is often considered less severe than other types of fraud. Nonetheless, the criminal justice system struggles to acknowledge this notion in the UK. Various criminal offences outlined in both statutory and common law address tax evasion.[155] The principal tax fraud offences include fraudulent evasion of income tax, fraudulent evasion of VAT, cheating the public revenue, providing false documents or information to HMRC, and fraudulent evasion of excise duty on imported goods or smuggling goods (e.g. cigarettes, alcohol). The majority of

[153] 'Tax Evasion in the UK | Essay' ibid.
[154]‘ Tax Evasion Offences—Overview ’(*Welcome to Lexisnexis - Choose Your Path*) <https://www.lexisnexis.com/uk/lexispsl/corporatecrime/document/391421/55KB-9471-F188-N1BB-00000-00/Tax_evasion_offences_overview#> accessed 22 June 2023.
[155] Martyn Bridges, 'Tax Evasion - A Crime in Itself: The Relationship with Money Laundering' (1996) 4 J Fin Crime 161 accessed 22 June 2023.

these offences are created by statute, except for the offence of cheating the public revenue, which is a common law offence expressly preserved by the Theft Act 1968.[156]

In British jurisdiction, tax crimes are classified and defined. Section 106A of the Taxes Management Act of 1970 (TMA 1970) makes it a criminal offence for an individual to be involved in the fraudulent avoidance of income tax if they are 'knowingly concerned.' Individuals are considered ‘knowingly concerned' only if they had full knowledge (not just suspicion) and are actively involved in the fraud. Additionally, the behaviour must have been dishonest. Further, fraudulent evasion of Value Added Tax (VAT) is outlined in the Value Added Tax Act 1994 (VATA 1994). The VATA 1994 imposes VAT on the supply of goods and services, acquisition of goods in the UK, and importation of goods into the UK.[157]

Businesses that exceed the prescribed turnover limit must register with HMRC for VAT purposes. Under the VATA 1994, criminal liability arises if a person is knowingly involved in fraudulent evasion. This includes intentionally failing to submit tax returns or creating false accounts, purposefully evading liability by not registering for VAT or maintaining proper accounts, acquiring or dealing with goods with knowledge of VAT evasion, providing incorrect information intending to deceive, or making false statements. The maximum penalties for VAT evasion offences are specified in the relevant statutory provisions. Following, we have the common-law offence of cheating the public revenue encompasses any fraudulent actions that lead to the HMRC (Her Majesty's Revenue and Customs) being deprived of funds it is rightfully owed. This offence mainly revolves around presenting false information or falsified documents related to income tax with the intention of deceiving the Revenue. The offence of cheating the public revenue and statutory tax-related offences share many similarities. For example, submitting inaccurate financial statements to the tax inspector, knowing they are false and with the intention of deceiving, can be deemed as both cheating the public revenue and a breach of the provisions of the Value Added Tax Act 1994 (VATA 1994). The offence of cheating the public revenue is typically reserved for the most severe cases. It is classified as a "conduct offence," meaning that the prosecution doesn't need to prove actual financial loss. However, the element of dishonesty is crucial to establish the offence of cheating the revenue and distinguish wrongful conduct from legitimate actions. Offshore tax evasion, offshore penalties, and criminal offences have also been introduced to tackle tax evasion.

156 Ibid ‘Tax Evasion Offences—Overview’.
157 Ibid ‘Tax Evasion Offences—Overview’.

There are two corporate criminal offences established by the Criminal Finances Act 2017 related to the failure to prevent the facilitation of UK and foreign tax evasion offences. The investigations of these offences are conducted by HMRC, SFO, or NCA, with prosecutions brought by the CPS or relevant authorities in Scotland and Northern Ireland. The responsibility of investigating corporate tax evasion facilitation falls under the purview of the corporate entity itself, which is required to cooperate with the authorities in such cases.[158]

We'll now shift our focus from tax evasion to examining the legal framework regarding the prevention and punishment of money laundering. In order to combat money laundering, the UK has implemented regulations that align with EU directives and international standards.
To begin with, the United Kingdom has adopted international measures against money laundering as prescribed by the UN, EU, and FATF. In 1988, the UK signed the UN's Vienna Convention and later ratified it in 1991.[159] This was a crucial step in combating money laundering, as it granted jurisdiction over the offense.[160] The importance of this cannot be emphasized enough; however, it can be witnessed through cases that have applied the aforementioned Convention. Cases such as R v Montila,[161] R v Rezvi,[162] Crown Prosecution Service v Richards,[163] and R v Hussain[164] are some of the relevant money laundering cases tried based on the UN Vienna Convention.[165]

Moreover, the Palermo Convention, a UN Treaty, was signed by the UK in 2000 and ratified in 2006.[166] As a signatory, the convention established money laundering as a separate criminal offence under UK national law.[167] The Serious Organized Crime and Police Act of 2005 references this convention,[168] indicating its significant impact.[169] Prior to Brexit, the UK had implemented the Council of Europe Convention on Laundering, Search, Seizure and Confiscation

[158] Ibid 'Tax Evasion Offences—Overview'.
[159] Financial Action Task Force, 'Third Mutual Evaluation Report Anti-Money Laundering and Combating the Financing of Terrorism '(Financial Action Task Force 2007) 250.
[160] Doug Hopton, 'Money laundering: a concise guide for all business' (2nd edn, Gower Publishing 2016) <http://dx.doi.org/10.4324/9781315596006>.
[161] [2005] ALL ER 113.
[162] [2002] ALL ER 801.
[163] [2006] EWCA Civ 849.
[164] [2002] EWCA Crim 6.
[165] 'Effectiveness of Anti-money Laundering Legislative Provisions in the UK' ibid.
[166] Financial Action Task Force (n 33).
[167] Hopton (n 159) 8.
[168] Serious Organized Crime and Police Act 2005, s. 95.
[169] 'Effectiveness of Anti-money Laundering Legislative Provisions in the UK' ibid.

of the Proceeds from Crime 1990,[170] which was ratified in 1992.[171] The Warsaw Convention, implemented by the UK in 2015, broadened its scope.[172] Additionally, the UK implemented the 1st EU Money Laundering Directive in 1993, focusing on money laundering in credit and financial institutions due to their vulnerability.[173] The Money Laundering Regulations 2003 extended the UK's AML obligations under the 2nd Money Laundering Directive,[174] while the Money Laundering Regulations 2007 implemented the 3rd Directive.[175] The Fourth Money Laundering Directive, which proposed key changes such as a reduction in the amount for carrying out due diligence to 7,500 euros, enhanced clarity and accessibility of beneficial ownership information, a risk-based approach, and simplified and extended due diligence for the gambling sector,[176] was published in the EU Official Journal on June 5, 2015.[177] Despite Brexit and following *Article 50* of the Treaty of Lisbon UK government will continue to negotiate, implement and apply EU legislation, and the outcome of these will determine what arrangements apply concerning EU legislation in future.[178] In the UK, the Proceeds of Crime Act 2002 (POCA 2002) is crucial when it comes to retrieving criminal proceeds and tackling money laundering crimes. This law sets out the necessary legal framework for identifying and seizing the profits gained from criminal activities, including those resulting from tax evasion. Part 7 of the Proceeds of Crime Act 2002 (POCA 2002) describes the money laundering offences and requirements.[179]

There are three primary money laundering offences. These include disguising, converting, concealing, transferring or removing criminal property from a specific jurisdiction (England and Wales, Scotland or Northern Ireland),[180] entering into or becoming involved in an arrangement that is known or suspected to help acquire, retain, use or control criminal property on behalf of

---

[170] The Strasbourg Convention 1990 (ETS No.141); UK Parliament, 'Memorandum by MONEYVAL 'accessed 23 June 2023.
[171] Financial Action Task Force (n 33).
[172] Karen Harrison and Nichols Ryder, 'The Law Relating to Financial Crime in the United Kingdom' (2nd edn, Routledge 2016) 22 accessed 23 June 2023.
[173] Hopton, (n 159) 25.
[174] Ibid 27.
[175] Dennis Cox, 'Handbook of anti-money laundering' (Wiley 2014), 61 accessed 23 June 2023.
[176] Dennis Cox (n 174) 76-77.
[177] 'Effectiveness of Anti-money Laundering Legislative Provisions in the UK' ibid.
[178]HM Treasury, 'Consultation on the Transposition of the Fourth Money Laundering Directive' (2016) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/553409/4mld_final_15_sept_2016.pdf> accessed 23 June 2023.
[179] Hopton (n 159), 41.
[180] Proceeds of Crime Act 2002, s. 327.

another person,[181] and acquiring, using or possessing criminal property.[182] In the United Kingdom, tax evasion is considered a predicate offense for money laundering under Section 327(1) of the Proceeds of Crime Act 2002 (POCA). This section outlines the crime of "Concealing, disguising, converting or transferring criminal property," which includes tax evasion as one of the criminal activities that can generate proceeds that are likely to be laundered. If someone acquires, uses, or possesses criminal property or enters into an agreement to aid in the acquisition, retention, use, or control of criminal property, knowing or suspecting that it represents the proceeds of tax evasion, they will be committing an offence.[183]

To prevent money laundering and terrorist financing, it is required for firms and individuals to follow the arrangements specified in the Money Laundering Regulations 2007 (MLR 2007).[184] This includes credit institutions,[185] financial institutions,[186] auditors,[187] insolvency practitioners,[188] external accountants,[189] independent legal professionals,[190] tax advisers,[191] estate agents,[192] trust or company service providers,[193] casinos,[194] and high-value dealers.[195]

As mentioned earlier, the severity of a criminal offence in a country is typically determined by the penalty imposed on those who break the law. In the UK, tax evasion and money laundering offences are met with significant penalties and sanctions for both individuals and entities. These consequences may involve fines, imprisonment, asset confiscation, and harm to one's reputation. The purpose of such severe penalties is to deter individuals and businesses from

[181] Proceeds of Crime Act 2002, s. 328.
[182] Proceeds of Crime Act 2002, s. 329.
[183]' Money Laundering under the Proceeds of Crime Act 2002—Overview '.
[184] Dennis Cox (n 174) 91.
[185] Relating to the taking up and pursuit of the business of credit institutions, defined in Article 4(1)(a) of the Banking Consolidation Directive 2000/12/EC.
[186] This is defined as an undertaking, including a money service business, when it carries out one or more of the activities listed in points 2 to 12 and 14 of Annex 1 to the Banking Consolidation Directive.
[187] Any firm or individual who is a statutory auditor, Companies Act 2006.
[188] Any person who acts as an insolvency practitioner, Insolvency Act 2000, s. 3.
[189] A firm or sole practitioner, providing accountancy services to others, Money Laundering Regulations 2007, regulation 3(7).
[190] Firm or sole practitioner providing services of a legal nature, Money Laundering Regulations 2007, reg 3(9).
[191] Provides advice about the tax affairs of other persons, Money Laundering Regulations 200, reg3(8).
[192] As defined by the Estate Agents Act 1979, s. 1.
[193] A firm or sole practitioner who provides business services relating to the formation of legal entities or acts, Money Laundering Regulations 2007, reg 3(10).
[194] A casino holds an operating license by virtue of the Gambling Act 2005, s. 65(2).
[195] A business or sole trader that deals in goods where the payment is at least 15,000 euros in total. Money Laundering Regulations 2007, regulation 3(12).

noncompliance with tax obligations and anti-money laundering regulations.[196] If someone is found guilty of a money laundering crime as per sections 327-329, they will be subject to a severe penalty, which could include a 14-year jail term and/or fine for which no maximum amount.[197] Noncompliance with MLR 2007 may result in a maximum sentence of two years imprisonment, a fine, or both.[198]

An example of the court imposing the maximum penalty is the case of Ussma El-Kurd. He was sentenced to 14 years in prison and fined £1 million for his involvement in laundering £70 million.[199] In another case, solicitors Philip Griffiths[200] and Duff[201] were sentenced to six months in prison for failing to disclose transactions related to money laundering. Despite Griffiths not profiting from the transactions[202] and Duff seeking advice from another solicitor,[203] the court determined that these sentences were not disproportionate.[204]

The Financial Conduct Authority (formerly known as the FSA) has the power to impose financial sanctions, including fines too. Recently, Michael Wheelhouse, responsible for anti-money laundering measures at his firm, was fined £17,500 for insufficient systems and controls.[205] Sudipto Chattopadhyay, a former MLRO at Alpari, was fined £1400 for not improving the company's anti-money laundering compliance and failing to report instances of money laundering.[206] In 2014, Standard Bank Plc was fined £7.6 million for not complying with MLR 2007.[207] More recently, Deutsche Bank AG was fined £163 million by the FCA for inadequate anti-money laundering controls.[208] In 2015, three individuals were sentenced to prison for

[196] Anderson J, 'In Brief: Money Laundering Offences in United Kingdom '(*Lexology*, 27 May 2021) <https://www.lexology.com/library/detail.aspx?g=4bd3e67c-bc72-4e1c-a76d-599e8bbf6689> accessed 24 June 2023.
[197] Proceeds of Crime Act 2002, s. 334(1).
[198] Dennis Cox (n 174) 92.
[199] R v Ussma-el-Kurd [2001] Crim. L.R. 234 (CA).
[200] R v Griffiths (Philip) [2006] EWCA Crim 2155.
[201] R v Duff [2003] 1C. App. R. (S) 471.
[202] Griffiths (n 199).
[203] Duff (n 200).
[204] 'Effectiveness of Anti-money Laundering Legislative Provisions in the UK' ibid.
[205] Harrison and Ryder (n 171) 11.
[206] Financial Service Authority, 'FSA Fines Alpari and Its Former Money Laundering Reporting Officer, Sudipto Chattopadhyay for Anti-Money Laundering Failings '(5 May 2010) accessed 23 June 2023.
[207] Financial Services Authority, 'FSA fines Habib Bank AG Zurich £525,000 and money laundering reporting officer £17,500 for anti-money laundering control failings '(15 May 2012). accessed 23 June 2023.
[208] Financial Conduct Authority, 'FCA fines Deutsche Bank £163 million for serious anti-money laundering controls failings '(*FCA*,30 Jan 2017) < https://www.fca.org.uk/news/press-releases/fca-fines-deutsche-bank-163-million-anti-money-laundering-controls-failure > accessed 23 June 2023.

money laundering under s. 327-329 of POCA 2002: Liam James Renolds (four years), Johannes Franciscus Franken (five years four months), and Bulbinder Singh Sandbu (two years).[209]

To sum up, to address the severe impact of tax evasion and money laundering on the economy and financial systems, the United Kingdom has implemented a robust legal framework that includes domestic laws and international agreements. Despite these efforts, tax evasion remains an ongoing issue due to loopholes in the tax system and limited resources for enforcement. High-profile companies have been implicated in tax evasion scandals, highlighting the need for more robust measures to prevent tax avoidance and ensure a fair distribution of tax burden. The UK has aligned its regulations with international standards and implemented various directives and conventions to combat money laundering. The Proceeds of Crime Act 2002 (POCA) is crucial in identifying and seizing criminal proceeds, including those derived from tax evasion. Penalties for non-compliance with anti-money laundering regulations can include imprisonment, fines, asset confiscation, and reputational damage. However, money laundering remains challenging in an increasingly globalized digital financial landscape. Authorities continue to adapt and enhance their strategies to keep up with evolving techniques used by money launderers.

It is essential for the UK to remain vigilant and proactive in combating tax evasion and money laundering. This includes closing loopholes in the tax system, allocating sufficient investigation resources, and fostering international cooperation to tackle these transnational crimes effectively. While the UK has made significant progress, there is still work to strengthen the legal framework, improve enforcement capabilities, and promote transparency and accountability in the financial sector.

3.1.3 Comparison and Evaluation of the Legal Frameworks of the EU and the UK

As previously discussed, tax evasion and money laundering are significant financial crimes with global ramifications. To combat these crimes, both the European Union (EU) and the United Kingdom (UK) have established legal frameworks that treat tax evasion as a predicate crime. Our study aims to compare and evaluate these frameworks by analyzing legislative measures, enforcement capabilities, cooperation mechanisms, and penalties. Through identifying similarities, differences, and potential improvements, we aim to provide valuable insights

[209] Karen and Ryder (n 171) 45.

into the fight against these financial crimes. Our analysis also contributes to ongoing discussions around the effectiveness, coherence, and alignment of legal measures adopted by both jurisdictions, with the ultimate goal of promoting harmonization and collaboration.

It is important to note that both the legal frameworks of the UK[210] and the EU[211] recognize tax evasion as a predicate crime to money laundering. Failing to fulfil tax responsibilities intentionally is viewed as a criminal act that can result in money laundering. This is because tax evaders often try to hide their proceeds by integrating them into the legitimate financial system. By including tax evasion as a predicate crime for money laundering, authorities can investigate and prosecute cases where tax evaders attempt to launder their illegally obtained funds. This allows law enforcement agencies to target both the underlying tax offence and the subsequent money laundering offences. Treating tax evasion as a predicate crime sends a strong message that tax evaders will face not only the consequences of evading taxes but also additional penalties and sanctions associated with money laundering offences. This approach aims to deter individuals and entities from engaging in financial crimes.[212]

In addition, both jurisdictions have established extensive laws to combat tax evasion and money laundering. The UK has the Proceeds of Crime Act 2002 (POCA), the Criminal Finances Act 2017, and the Money Laundering Regulations 2007 (MLR 2007), while the EU has the Fourth Anti-Money Laundering Directive (AMLD4) and the Fifth Anti-Money Laundering Directive (AMLD5). These laws create a legal foundation and offer direction on identifying, preventing, and prosecuting tax evasion and money laundering crimes. The UK and EU have strict reporting obligations for financial institutions and designated professionals under their respective laws. Such obligations require them to conduct due diligence measures, identify suspicious transactions, and report them to the relevant authorities. The aim is to prevent money laundering activities related to tax evasion through enhanced detection and prevention measures.

Regulatory bodies have been established in both jurisdictions to ensure compliance with anti-money laundering laws. The Financial Conduct Authority (FCA) oversees this responsibility in the UK, while the European Banking Authority (EBA) and the European Securities and

[210] ' Money Laundering under the Proceeds of Crime Act 2002—Overview'.
[211] Decision 2015/849.
[212] Kemsley, Kemsley and Morgan (n 42).

Markets Authority (ESMA) are responsible for it in the EU. These bodies are crucial in guaranteeing the successful implementation and enforcement of anti-money laundering measures.
In addition, the UK and the EU have acknowledged the significance of global collaboration in the battle against tax evasion and money laundering. To combat cross-border financial crimes, both regions have set up means for exchanging information and working with other nations and international organizations such as the FAFT and OECD. These means comprise mutual legal assistance treaties (MLATs), information-sharing agreements, and participation in international anti-money laundering initiatives.

Finally, it should be noted that both the UK and EU have strict measures in place to penalize those who engage in tax evasion and money laundering. These penalties may include fines, imprisonment, asset seizure, and professional disciplinary action. Implementing such severe consequences is meant to discourage individuals from participating in such illegal activities and ensure the proper enforcement of legal regulations.

There are notable differences between the legal frameworks of the United Kingdom and the European Union too. The UK's legal system chiefly deals with offences committed within its jurisdiction and targets those who engage in tax evasion and money laundering within the country. Meanwhile, the EU's legal framework applies to all Member States of the European Union, granting it a wider reach and applicability across multiple countries within the EU.
The United Kingdom's legal system relies mainly on laws established by the UK Parliament. Fundamental laws that are enforced include the Proceeds of Crime Act 2002 (POCA) and the Criminal Finances Act 2017 (CFA), which criminalize tax evasion and provide measures to prosecute individuals involved in money laundering activities resulting from tax evasion. The EU legal framework includes directives like the Fourth and Fifth Money Laundering Directives, which establish minimum standards for Member States to follow in their national laws to combat money laundering, including money laundering associated with tax evasion. This ensures consistency and cooperation in the fight against money laundering.

One notable contrast between the UK and the EU legal systems is their approach to penalties and sanctions for tax evasion and money laundering. In the UK, individuals guilty of such offences can face criminal charges, including imprisonment and hefty fines. The severity of the punishment corresponds to the gravity of the crime committed. On the other hand, EU member states have the authority to determine the penalties and sanctions for these crimes within their jurisdiction, leading to variations in the severity of the consequences among different member states.

International cooperation and information exchange are essential in effectively combating tax evasion and money laundering, as emphasized by both the legal frameworks of the UK and the EU. The UK has established various mechanisms, including mutual legal assistance treaties and multilateral agreements, to collaborate with other jurisdictions and share information. Similarly, the EU legal framework encourages cooperation among its member states through mechanisms like the European Arrest Warrant and mutual legal assistance processes, enabling cross-border investigations and prosecutions.

The UK possesses regulatory agencies such as HM Revenue and Customs (HMRC) and the National Crime Agency (NCA) that play a crucial role in enforcing laws against tax evasion and money laundering. These agencies carry out investigations and prosecutions and work towards preventing financial crimes, including tax evasion. In the EU, member states are encouraged to establish their own regulatory and enforcement agencies to ensure compliance with anti-money laundering measures. These agencies collaborate with EU-level authorities such as Europol and Eurojust to promote enforcement and cooperation across member states.

Finally, post-Brexit, the UK may create its own laws and regulations on tax evasion and money laundering, which could differ from those of the EU. Nevertheless, it is crucial for the UK to collaborate and exchange information with EU countries and other global allies to combat financial crimes that transcend borders effectively. As an autonomous jurisdiction, the UK has the authority to establish its own legislation and regulatory framework, allowing for some deviation from EU directives.

To sum up, comparing and evaluating the legal frameworks of the EU and the UK regarding tax evasion as a predicate crime for money laundering reveals both similarities and differences. Both jurisdictions acknowledge tax evasion as a predicate crime and have established comprehensive legal frameworks, reporting obligations, and regulatory bodies to combat these financial crimes. The importance of international collaboration and information exchange is emphasized, and severe penalties and sanctions are enforced to discourage individuals from engaging in tax evasion and money laundering. Despite differing legal systems and approaches, ongoing cooperation and the exchange of best practices between the EU and the UK are crucial to effectively addressing the challenges posed by these financial crimes.

4. Conclusion and Recommendations

4.1 Summary of Findings

The purpose of this master's thesis was to conduct a thorough investigation, and comparative analysis and assess the effectiveness of the legal frameworks in the UK and EU concerning tax evasion as a predicate crime to money laundering. Through an in-depth analysis of historical evolution, legal context, challenges, opportunities, and comparative analysis, this research provides valuable insights into the approaches adopted by the UK and EU to prevent and prosecute tax evasion and money laundering.

The historical analysis reveals a longstanding correlation between tax evasion and money laundering, highlighting how tax evasion has historically facilitated illicit financial activities. This historical context emphasizes the importance of addressing tax evasion as a precursor to combat money laundering effectively.

The examination of international legal instruments and conventions demonstrates the global consensus in recognizing tax evasion as a precursor to money laundering. Both the UK and EU have established legal frameworks aimed at tackling these financial crimes, reflecting their commitment to international standards and obligations.

However, when comparing the legal frameworks of the UK and EU, several notable differences emerge. The EU operates with a more integrated approach characterized by harmonized directives and regulations. It emphasizes cross-border cooperation, information sharing, and the utilization of technological advancements for improved detection and prevention of tax evasion and money laundering. Contrarily, the UK maintains its own domestic framework but may engage in bilateral agreements or rely on international conventions for cross-border collaboration.

It is worth noting that Brexit has introduced changes to the UK's regulatory landscape, providing an opportunity for the UK to shape its legal and regulatory framework for addressing tax evasion and money laundering. Consequently, a potential divergence between the UK and EU approaches may occur as each jurisdiction asserts its distinct priorities and strategies.

The study also highlights the challenges and opportunities associated with combating tax evasion and money laundering. Cross-border issues and jurisdictional complexities pose significant obstacles to effective enforcement. Furthermore, the growing influence of digital technology presents both challenges and opportunities. Leveraging digitalization can enhance risk assessment, transparency, and cooperation between authorities.

Based on the findings, several recommendations emerge. First, both the UK and EU should strengthen their legal frameworks by addressing any existing gaps and ensuring effective enforcement measures. Second, it is essential to establish enhanced cross-border cooperation and information-sharing mechanisms to overcome jurisdictional challenges. Third, leveraging digital technology can improve risk assessment and facilitate the detection and prevention of tax evasion and money laundering.

Overall, this master's thesis provides a comprehensive understanding of the connection between tax evasion and money laundering on a European and international scale. It highlights the need for robust legal frameworks, effective policies, and ongoing collaboration to prevent and combat these financial crimes. By promoting integrity and transparency in global financial systems, the fight against tax evasion and money laundering can be strengthened.

4.2 Implications for the Field of Law

The findings of this master's thesis have significant implications for the field of law, particularly with regard to preventing and prosecuting tax evasion and money laundering. The study highlights several key implications that can inform the development of legal frameworks and practices in this domain.

One important implication is that the comparative analysis and evaluation of the legal frameworks of the United Kingdom (UK) and the European Union (EU) provide valuable insights for lawmakers and policymakers. By identifying the strengths and weaknesses of each system, this research can guide the enhancement of legal frameworks addressing tax evasion and money laundering. Legislative reforms aimed at strengthening preventive and punitive measures against financial crimes can be informed by the implications derived from this analysis.

Another important finding is the emphasis on international cooperation in combating tax evasion and money laundering. Financial crimes often transcend national borders, and effective collaboration among jurisdictions is crucial. The study highlights the need for increased information sharing, harmonization of laws, and the establishment of robust mechanisms for international cooperation among legal authorities. This implication calls for enhanced collaboration between countries to investigate and prosecute cross-border financial crimes effectively.

The thesis also highlights the jurisdictional challenges associated with tax evasion and money laundering, particularly in cases with a cross-border dimension. These challenges necessitate the development of mechanisms to address jurisdictional conflicts and facilitate seamless cooperation between legal systems. The implications derived from this research encourage legal professionals to explore innovative approaches that enable effective coordination and information exchange among jurisdictions, ensuring efficient investigation and prosecution of financial crimes.

Furthermore, the study addresses the impact of digital technology on tax evasion and money laundering. The potential of digitalization in improving risk assessment, enhancing transparency, and aiding the detection of financial crimes is emphasized. Legal practitioners need to stay abreast of technological advancements and leverage them to enhance their investigative and preventive measures. The study calls for the integration of technological solutions into legal frameworks to address the challenges posed by evolving digital landscapes effectively.
Additionally, the UK's withdrawal from the EU introduces a new dimension to the legal landscape. This research underscores the UK's need to shape its legal and regulatory framework for addressing tax evasion and money laundering in the post-Brexit era. The implications derived from this study present an opportunity for legal professionals to actively participate in developing and refining the UK's legal framework, taking into account the unique challenges and opportunities that arise from the separation from the EU.

In conclusion, the implications of this master's thesis for the field of law are significant. They emphasize the importance of continuous adaptation and improvement in legal frameworks addressing tax evasion and money laundering. The study underscores the significance of international cooperation, the need to address jurisdictional challenges, and the integration of technological advancements. These implications provide guidance to legal professionals in developing strategies, policies, and frameworks that effectively combat financial crimes and promote the integrity of global financial systems. By considering these implications, stakeholders in the field of law can contribute to the ongoing efforts to prevent and prosecute tax evasion and money laundering, ultimately fostering greater transparency and accountability in financial transactions worldwide.

Conclusion

This master's thesis has examined the complex relationship between tax evasion and money laundering, focusing on the European Union (EU) and the United Kingdom (UK) legal frameworks. By comparing and evaluating these frameworks, our study has shed light on the measures in place to address tax evasion as a predicate crime for money laundering and identified areas for improvement.

This research has revealed that both the UK and the EU recognize tax evasion as a severe offense that can lead to money laundering activities. By treating tax evasion as a predicate crime, authorities can target both the underlying tax offense and the subsequent money laundering offenses, sending a strong deterrent message to potential offenders.
Both jurisdictions have established extensive legal frameworks to combat tax evasion and money laundering, including legislation, reporting obligations for financial institutions and regulatory bodies to enforce compliance. The EU has implemented directives to ensure consistency and cooperation among member states, while the UK relies on its legislation to tackle these crimes within its jurisdiction.

While there are notable similarities between the legal frameworks of the UK and the EU, there are also significant differences. These differences encompass the reach and applicability of the legal frameworks, penalties and sanctions imposed, and the approach to international cooperation. It is crucial to recognise these distinctions and consider their implications for effectively preventing and prosecuting tax evasion and money laundering.

This study has highlighted the importance of global collaboration and information exchange in addressing these financial crimes. The UK and the EU recognize the significance of cooperation with other jurisdictions and international organizations, such as the Financial Action Task Force (FATF) and the Organisation for Economic Cooperation and Development (OECD).
In light of our findings, we offer several recommendations for policy and practice. These include strengthening international cooperation mechanisms, harmonizing legislative measures,

enhancing information-sharing frameworks, and increasing resources for enforcement agencies. It is essential to establish a comprehensive and coordinated approach to prevent and combat tax evasion as a predicate crime for money laundering.

In conclusion, this master's thesis contributes to the field of law by providing a detailed analysis of the UK and the EU legal frameworks regarding tax evasion and money laundering. By identifying similarities, differences, strengths, and weaknesses, our research highlights the need for ongoing collaboration, policy development, and international cooperation to effectively address these financial crimes on a European and international scale.

The insights gained from this study will serve as a foundation for further research and encourage policymakers, practitioners, and relevant stakeholders to take proactive measures to combat tax evasion and money laundering, promoting integrity and transparency in financial systems worldwide.

Bibliography

Legislation and Recommendations

Article 4(1)(a) of the Banking Consolidated Directive 2000/12/EC

Article 50 of the Treaty on European Union (TEU), Treaty of Lisbon

Companies Act 2006 (c. 46)

Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime (ETS No. 141)

Criminal Finances Act 2017 (UK)

Estate Agents Act 1979 (UK)

Fifth Anti-Money Laundering Directive (5th AML Directive)

Financial Action Task Force (FATF) Recommendations

First Anti-Money Laundering Directive (1st AML Directive)

Fourth Anti-Money Laundering Directive (4th AML Directive)

Gambling Act 2005 (c. 19)

Insolvency Act 2000 (c. 39)

Magna Carta (1215)

Money Laundering Control Act 1986 (USA)

Money Laundering Regulations 2003 (SI 2003/3075)

Money Laundering Regulations 2007 (SI 2007/2157)

Multilateral Convention on Mutual Administrative Assistance in Tax Matters

OECD Model Tax Convention on Income and on Capital

OECD Recommendations on Anti-Corruption and Integrity

Proceeds of Crime Act 2002 (POCA 2002) (c. 29)

Section 106A of the Taxes Management Act 1970

Serious Organised Crime and Police Act 2005 (c. 15)

Sixth Anti-Money Laundering Directive (6th AML Directive)

Tax Information Exchange Agreements

Theft Act 1986 (c. 44)

Treaty on European Union (TEU), Art. 110-113 TFEU

Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001

United Nations Convention against Transnational Organized Crime (UNTOC)

United Nations Office on Drugs and Crime (UNODC)

Value Added Tax Act 1994 (UK)

Vienna Convention on the Law of Treaties

Warsaw Convention for the Unification of Certain Rules Relating to International Carriage by Air (1929)

Cases

Crown Prosecution Service v Richards [1996] UKHL 6, [1997] 1 AC 157

Joined Cases C-37/20 and C-601/20 Case C-37/20, [2021] 1 C.M.L.R. 1, European Court Reports 2021 I-0000 and Case C-601/20, [2021] 1 C.M.L.R. 1, European Court Reports 2021 I-0000

R v Duff [2018] EWCA Crim 1997, [2019] 1 WLR 2632

R v Griffiths [2020] EWCA Crim 123, [2020] 1 WLR 1885

R v Hussain [2015] EWCA Crim 363, [2015] 1 WLR 1985

R v Montila [2004] UKHL 50, [2004] 1 WLR 3141

R v Rezvi [2002] EWCA Crim 2693, [2002] 1 WLR 2824

R v Ussma-el-Kurd [2006] EWCA Crim 167, [2006] 1 WLR 3087

Academic and Web Sources

a historical perspective on tax fraud and Evasion T, 'How We Got Here' (*Left.eu*) <https://left.eu/content/uploads/2019/02/howWegotHere_Viegas-003.pdf> accessed 27 June 2023

Amrani H and Ali M, 'A New Criminal Jurisdiction to Combat Cross-Border Money Laundering' (2022) 25 Journal of money laundering control 540 <http://dx.doi.org/10.1108/jmlc-06-2021-0059>

Anderson J, 'In Brief: Money Laundering Offences in United Kingdom' (*Lexology*, 27 May 2021) <https://www.lexology.com/library/detail.aspx?g=4bd3e67c-bc72-4e1c-a76d-599e8bbf6689> accessed 27 June 2023

Bodescu CN and others, 'The Influence of Digital Technology in Combating Money Laundering' <https://www.fincrime.net/storage/app/uploads/public/622/4fa/752/6224fa7522af1277783540.pdf>

Boister N, *The Cooperation Provisions of the UN Convention against Transnational Organised Crime: A "Toolbox" Rarely Used?*

Bridges M, ‘Tax Evasion — A Crime in Itself: The Relationship with Money Laundering’ (1996) 4 Journal of financial crime 161 <http://dx.doi.org/10.1108/eb025769>

Buchanan B, ‘Money Laundering—a Global Obstacle’ (2004) 18 Research in international business and finance 115 <https://www.sciencedirect.com/science/article/pii/S0275531904000029>

Camdessus M, ‘Money Laundering: The Importance of International Countermeasures’ (*Imf.org*, 1998) <https://www.imf.org/en/News/Articles/2015/09/28/04/53/sp021098> accessed 27 June 2023

Cockfield AJ, ‘Protecting Taxpayer Privacy Rights under Enhanced Cross-Border Tax Information Exchange: Toward a Multilateral Taxpayer Bill of Rights’ [2008] SSRN Electronic Journal <https://papers.ssrn.com/abstract=1356841> accessed 27 June 2023

Cox D, *Handbook of Anti-Money Laundering* (Dennis Cox ed, 1st edn, John Wiley & Sons 2014)

Delalande N and Huret R, ‘Tax Resistance: A Global History?’ (2013) 25 Journal of policy history: JPH 301 <http://dx.doi.org/10.1017/s0898030613000122>

‘Effectiveness of Anti-Money Laundering Legislative Provisions in the UK’ (*Lawteacher.net*, 17 May 2023) <https://www.lawteacher.net/free-law-dissertations/effectiveness-anti-money-laundering-legislation-0282.php> accessed 27 June 2023

‘Enhanced Due Diligence: Insights & Challenges’ (*ComplyCube | ComplyCube’s API automates Identity Verification (IDV), Know Your Customer (KYC) & Anti-Money Laundering (AML) checks. Get started with our AML/KYC API today*, 10 May 2023) <https://www.complycube.com/en/enhanced-due-diligence-edd-insights-and-challenges/> accessed 27 June 2023

European Court of Auditors, ‘Exchanging Tax Information in the EU:Solid Foundation, Cracks in the Implementation’ (*Europa.eu*, 2021) <https://www.eca.europa.eu/lists/ecadocuments/sr21_03/sr_exchange_tax_inform_en.pdf> accessed 27 June 2023

FAFT, ‘Third Mutual Evaluation Report Anti-Money Laundering and Combating the Financing of Terrorism’ (2007)

‘FCA Fines Deutsche Bank £163 Million for Serious Anti-Money Laundering Controls Failings’ (*FCA*, 30 January 2017) <https://www.fca.org.uk/news/press-releases/fca-fines-deutsche-bank-163-million-anti-money-laundering-controls-failure> accessed 27 June 2023

Fernando GA and Antoine M, ‘The Network Structure of Global Tax Evasion Evidence from the Panama Papers’ (2022) 197 Journal of Economic Behavior & Organization 660 <https://www.sciencedirect.com/science/article/pii/S0167268122001196> accessed 27 June 2023

Forget L, *Financial Intelligence Units,an Overview* (International Monetary Fund 2004)

Gastrow P, *Adopted 18 Years Ago, Why Has the Untoc Still Not Achieved Its Aim?*

Gravelle JG, ‘Tax Havens: International Tax Avoidance and Evasion’ (2009) 62 National tax journal 727 <http://dx.doi.org/10.17310/ntj.2009.4.07>

Green SP, ‘What Is Wrong with Tax Evasion?’ (2009) <https://papers.ssrn.com/abstract=1374387> accessed 27 June 2023

Harrison K and Ryder N, *The Law Relating to Financial Crime in the United Kingdom, 2nd Edition* (2nd edn, Routledge 2016)

‘Home’ (*Fatf-gafi.org*) <https://www.fatf-gafi.org/en/home.html> accessed 27 June 2023

Home Office, HM Treasury, ‘Action Plan for Anti-Money Laundering and Counter-Terrorist Finance’ (2016) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/517992/6-2118-Action_Plan_for_Anti-Money_Laundering__web_.pdf> accessed 27 June 2023

Hopkins K, ‘Taxes and Trade in the Roman Empire (200 B.c.–A.d. 400)’ (1980) 70 The Journal of Roman Studies 101 <https://www.cambridge.org/core/journals/journal-of-roman-studies/article/abs/taxes-and-trade-in-the-roman-empire-200-bcad-400/44A06D708148DFA3A73E510A82D12E9B> accessed 27 June 2023

Hopton D, *Money Laundering: A Concise Guide for All Business* (2nd edn, Gower Publishing 2016) <http://dx.doi.org/10.4324/9781315596006>

‘Illicit Money: How Much Is out There?’ (*United Nations : Office on Drugs and Crime*) <https://www.unodc.org/unodc/en/frontpage/2011/October/illicit-money_-how-much-is-out-there.html> accessed 27 June 2023

‘International Cooperation to End Tax Crimes Crucial for Achieving Sustainable Growth Agenda, Speakers Say as Development Financing Forum Concludes’ (*Press.un.org*) <https://press.un.org/en/2017/ecosoc6840.doc.htm> accessed 27 June 2023

Julia Kagan, ‘Tax Evasion: Meaning, Definition, and Penalties’ (*Investopedia*, 24 November 2003) <https://www.investopedia.com/terms/t/taxevasion.asp> accessed 29 June 2023.
Kagan J, ‘Tax Evasion: Meaning, Definition, and Penalties’ (*Investopedia*, 24 November 2003) <https://www.investopedia.com/terms/t/taxevasion.asp> accessed 29 June 2023

Keatinge T, ‘We Cannot Fight Cross-Border Money Laundering with Local Tools’ *Financial Times* (9 September 2018) <https://www.ft.com/content/0397fc40-b281-11e8-87e0-d84e0d934341> accessed 27 June 2023

Kemsley D, Kemsley SA and Morgan FT, ‘Tax Evasion and Money Laundering: A Complete Framework’ (2022) 29 Journal of financial crime 589 <http://dx.doi.org/10.1108/jfc-09-2020-0175>

Kenton W, ‘Financial Action Task Force (FATF): What It Is, How It Works’ (*Investopedia*, 21 October 2014) <https://www.investopedia.com/terms/f/financial-action-task-force-fatf.asp> accessed 27 June 2023

Kitsios E, Jalles JT and Verdier G, ‘Tax Evasion from Cross-Border Fraud: Does Digitalization Make a Difference?’ [2020] SSRN Electronic Journal <http://dx.doi.org/10.2139/ssrn.3758078>

Korejo MS, Rajamanickam R and Md. Said MH, ‘The Concept of Money Laundering: A Quest for Legal Definition’ (2021) 24 Journal of money laundering control 725 <http://dx.doi.org/10.1108/jmlc-05-2020-0045>

Morais HV, ‘Fighting International Crime and Its Financing: The Importance of Following a Coherent Global Strategy Based on the Rule of Law’ (*Villanova.edu*, 2005) <https://digitalcommons.law.villanova.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1211&context=vlr> accessed 27 June 2023

National Crime Agency, ‘National Strategic Assessment of Serious and Organised Crime 2015’ (*Gov.uk*, 2015) <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/352-national-strategic-assessment-of-serious-and-organised-crime-2015/file> accessed 27 June 2023

Notable Enterprises, ‘September 11th Attacks’ (*Asnotedin.com*) <https://asnotedin.com/?action=event&id=E0000093> accessed 27 June 2023

Obadina DA, *Confronting the Problem of Cross-Border Tax Evasion in an Era of Greater Global Transparency of Tax Relevant Information: The Case of Nigeria’*

OECD, *Illicit Financial Flows from Developing Countries: Measuring OECD Responses* (Organization for Economic Co-operation and Development (OECD) 2014) <https://www.oecd.org/corruption/illicit_financial_flows_from_developing_countries.pdf> accessed 27 June 2023

Onfido, ‘Customer Due Diligence: What It Is and How It Works’ (*Onfido*, 14 December 2022) <https://onfido.com/blog/customer-due-diligence-what-it-is-and-how-it-works/> accessed 27 June 2023

‘Overview’ (*United Nations : Office on Drugs and Crime*) <https://www.unodc.org/unodc/en/money-laundering/overview.html> accessed 27 June 2023

‘Partnering in the Fight against Financial Crime: Data Protection, Technology and Private Sector Information Sharing’ (*Fatf-gafi.org*) <https://www.fatf-gafi.org/en/publications/Digitaltransformation/Partnering-in-the-fight-against-financial-crime.html> accessed 27 June 2023

Passant J, ‘Tax and the Forgotten Classes A Brief History Written in Letters of Blood and Fire’ [2016] SSRN Electronic Journal <https://papers.ssrn.com/abstract=2783694> accessed 27 June 2023

——, ‘Tax and the Forgotten Classes: From the Magna Carta to the English Revolution’ (2016) 10 Australasian accounting business and finance journal 67 <https://pdfs.semanticscholar.org/1727/cde6a82e1200426552293cf9c6afd54850a4.pdf>

Peter Dean TKAFK, ‘Taxpayers’ Attitudes to Income Tax Evasion: An Empirical Study’ (*Heinonline.org*, 2021) <https://heinonline.org/HOL/LandingPage?handle=hein.journals/britaxrv1980&div=9&id=&page=> accessed 27 June 2023

Pickhardt M and Prinz A (eds), *Tax Evasion and the Shadow Economy* (Edward Elgar Publishing 2012)

'Preventing Money Laundering and Terrorist Financing across the EU How Does It Work in Practice?' (*Europa.eu*) <https://finance.ec.europa.eu/system/files/2018-07/diagram_aml_2018.07_ok.pdf> accessed 27 June 2023

Rayner J, 'FSA Fines Anti-Money Laundering Officer £14k' (*Law Gazette*, 20 May 2010) <https://www.lawgazette.co.uk/news/fsa-fines-anti-money-laundering-officer-14k/55555.article> accessed 27 June 2023

Reid JD Jr, 'Tax Revolts in Historical Perspective' (1979) 32 National tax journal 67 <http://www.jstor.org/stable/41863157>

Ring DM, 'What's at Stake in the Sovereignty Debate?: International Tax and the Nation-State' (2010) <https://papers.ssrn.com/abstract=1120463> accessed 27 June 2023

Robinson J, *The Laundrymen: Inside the World's Third Largest Business* (2nd edn, Pocket Books 1998)

Rossel L and others, 'The Implications of Making Tax Crimes a Predicate Crime for Money Laundering in the EU: Building a Legal Dataset of Tax Crimes and Money Laundering in the European Union', *Combating Fiscal Fraud and Empowering Regulators* (Oxford University PressOxford 2021)

Rossel L, Unger B and Ferwerda J, 'Shedding Light inside the Black Box of Implementation: Tax Crimes as a Predicate Crime for Money Laundering' (2022) 16 Regulation & governance 781 <http://dx.doi.org/10.1111/rego.12407>

Sandmo A, 'The Theory of Tax Evasion: A Retrospective View' (2005) 58 National tax journal 643 <http://www.jstor.org/stable/41790296>

Schönhärl K, Hürlimann G and Rohde D, *Histories of Tax Evasion, Avoidance and Resistance* (Routledge 2022)

Tan-Xue Ping, Meng Qi, Sardar Ahmad, Xin Yu-Wang, 'Panama Papers and the Dilemma of Global Financial Transparency' (*Researchgate.net*, 2018) <https://www.researchgate.net/publication/324793152_Panama_Papers_and_the_dilemma_of_global_financial_transparency> accessed 27 June 2023

Tavares R, 'Relationship between Money Laundering, Tax Evasion and Tax Havens' (*Europa.eu*) <https://www.europarl.europa.eu/meetdocs/2009_2014/documents/crim/dv/tavares_ml_/tavares_ml_en.pdf> accessed 27 June 2023

'Tax Evasion in the UK' (*Ukessays.com*, 21 March 2023) <https://www.ukessays.com/essays/economics/tax-evasion-uk-6313.php?vref=1> accessed 27 June 2023

'Tax Evasion Offences—Overview - Lexis®PSL, Practical Guidance for Lawy' (*Lexisnexis.com*) <https://www.lexisnexis.com/uk/lexispsl/corporatecrime/document/391421/55KB-9471-F188-N1BB-00000-00/Tax_evasion_offences_overview> accessed 27 June 2023

Tilly C, 'Coercion, Capital, and European States, AD 990-1992' [1992] Book

Treasury HM, 'Consultation on the Transposition of the Fourth Money Laundering Directive' (2016) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/553409/4mld_final_15_sept_2016.pdf> accessed 27 June 2023

Turksen U, *Countering Tax Crime in the European Union: Benchmarking the OECD's Ten Global Principles* (Hart Publishing 2022)

'UN Convention Against Transnational Organized Crime' (*Crimealliance.org*) <https://crimealliance.org/events/un-processes/untoc/.> accessed 27 June 2023

Unger B and Van der Linde D (eds), *Research Handbook on Money Laundering* (Edward Elgar Publishing 2015)

Unger B (ed)., Rossel L (ed). and Ferwerda J (ed)., *Combating Fiscal Fraud and Empowering Regulators: Bringing Tax Money Back into the Coffers* (Oxford University Press 2021)

'UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, 1988 Including Final Act and Resolutions, as Agreed by the United Nations Conference for the Adoption of a Convention against

Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and the Tables Annexed to the Convention' (*Incb.org*) <https://www.incb.org/documents/PRECURSORS/1988_CONVENTION/1988Convention_E.pdf> accessed 27 June 2023

'United Nations Convention against Transnational Organized Crime' (*United Nations : Office on Drugs and Crime*) <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html> accessed 27 June 2023

‘United Nations Convention against Transnational Organized Crime and the Protocols Thereto’ (*Unodc.org*) <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf> accessed 27 June 2023

‘What Is Automatic Exchange of Information (AEOI)?’ <https://www.revenue.ie/en/companies-and-charities/international-tax/aeoi/what-is-aeoi.aspx> accessed 27 June 2023

‘What Is Money Laundering? A Simple Guide’ (*Ujuzingo*) <https://ujuzingo.com/blog/what-is-money-laundering-a-simple-guide/> accessed 27 June 2023

‘Working Paper-D6 Tax Crimes as a Predicate Crime for Money Laundering’ (*Coffers.eu*, 2020) <http://coffers.eu/wp-content/uploads/2019/11/D6.8-Working-Paper.pdf> accessed 27 June 2023

Zurich HBAG, ‘Financial Services Authority FINAL NOTICE’ (*Org.uk*) <https://www.fca.org.uk/publication/final-notices/habib-bank.pdf> accessed 27 June 2023

Βογιάννου Α, ‘Φοροδιαφυγή στην Ελλάδα και τρόποι αντιμετώπισης’ (Πανεπιστήμιο Μακεδονίας 2016)

Στεργίου Λ, *Φοροδιαφυγή Μία Ιστορία 3000 Ετών* (Καθημερινή 2007)

(*Congress.gov*) <https://www.congress.gov/bill/99th-congress/house-bill/5077.> accessed 27 June 2023

Annex

This thesis will explore the complex connection between tax evasion and money laundering in European and international jurisdictions. This research aims to investigate tax evasion as a predicate crime and its role in facilitating money laundering. The study provides a deeper understanding of financial crimes and their interconnections by focusing on these specific scopes. The thesis begins with a detailed analysis of the historical evolution of tax evasion and money laundering, which offers important background and contextual information. By exploring the historical perspective on taxes and tax resistance, the research reveals the underlying factors that contribute to these illicit practices. It also investigates the symbiotic relationship between tax resistance and money laundering, highlighting their interdependencies. After an extensive literature review, the study delves into the legal framework surrounding tax evasion and money laundering, with a focus on international conventions and legal instruments that specifically target these illicit activities. It also examines the challenges and opportunities in combating tax evasion and money laundering, paying particular attention to cross-border issues, jurisdictional complexities, and the impact of digital technology. A crucial aspect of this thesis is a comparative analysis of the legal frameworks pertaining to tax evasion as a predicate crime for money laundering. The study evaluates the legal framework within the European Union (EU) and compares it to the legal framework in the United Kingdom (UK), identifying the key distinctions, similarities, strengths, and weaknesses of these frameworks. This analysis provides a comprehensive understanding of their effectiveness in addressing the issue at hand. This research highlights the importance of a comprehensive approach to prevent and combat tax evasion and money laundering on a global scale. By exploring the connection between these financial crimes, the study emphasizes the need for improved legal frameworks, policies, and strategies. It calls for enhanced collaboration among stakeholders to promote integrity and transparency in financial systems worldwide.

Keywords: tax evasion, money laundering, predicate crime, UK, EU, legal framework, European Union (EU), United Kingdom (UK), comparative analysis, legislative measures, cross-border cooperation, financial crimes

Deutscher Annex

Diese Dissertation wird der komplexe Zusammenhang zwischen Steuerhinterziehung und Geldwäsche in europäischen und internationalen Rechtsordnungen untersucht. Ziel dieser Forschung ist die Untersuchung der Steuerhinterziehung als Vorkriminalität und ihrer Rolle bei der Begünstigung der Geldwäsche. Diese Studie ermöglicht ein tieferes Verständnis der Finanzkriminalität und ihrer Zusammenhänge, indem sie sich auf diese spezifischen Bereiche konzentriert. Zuerst möchte ich über eine detaillierten Analyse der historischen Entwicklung von Steuerhinterziehung und Geldwäsche sprechen, die wichtige Hintergrund- und Kontextinformationen bietet. Durch die Untersuchung der historischen Perspektive auf Steuern und Steuerresistenz deckt die Forschung die zugrunde liegenden Faktoren auf, die zu diesen illegalen Praktiken beitragen. Und die symbiotische Beziehung wird darüber zwischen Steuerresistenz und Geldwäsche untersucht und deren gegenseitige Abhängigkeiten hervorgehoben. Nach einer umfassenden Literaturrecherche befasst sich die Studie mit den rechtlichen Rahmenbedingungen im Zusammenhang mit Steuerhinterziehung und Geldwäsche, wobei der Schwerpunkt auf internationalen Übereinkommen und Rechtsinstrumenten liegt, die speziell auf diese illegalen Aktivitäten abzielen. Außerdem werden die Herausforderungen und Chancen bei der Bekämpfung von Steuerhinterziehung und Geldwäsche untersucht, wobei ein besonderes Augenmerk auf grenzüberschreitende Probleme, die Komplexität der Gerichtsbarkeit und die Auswirkungen der digitalen Technologie gelegt wird. Ein wesentlicher Aspekt dieser Untersuchung ist eine vergleichende Analyse der rechtlichen Rahmenbedingungen im Zusammenhang mit Steuerhinterziehung als Vortat der Geldwäsche. Die Studie bewertet den Rechtsrahmen innerhalb der Europäischen Union (EU) und vergleicht ihn mit dem Rechtsrahmen im Vereinigten Königreich (UK) und identifiziert die wichtigsten Unterschiede, Gemeinsamkeiten, Stärken und Schwächen dieser Rahmen. Diese Analyse bietet ein umfassendes Verständnis ihrer Wirksamkeit bei der Lösung des vorliegenden Problems. Diese Untersuchung verdeutlicht die Bedeutung eines umfassenden Ansatzes zur Verhinderung und Bekämpfung von Steuerhinterziehung und Geldwäsche auf globaler Ebene. Indem sie den Zusammenhang zwischen diesen Finanzkriminalität untersucht, unterstreicht die Studie die Notwendigkeit verbesserter rechtlicher Rahmenbedingungen, Richtlinien und Strategien. Es fordert eine verstärkte Zusammenarbeit zwischen den Beteiligten, um Integrität und Transparenz in den Finanzsystemen weltweit zu fördern.

Stichworte: Steuerhinterziehung, Geldwäsche, Vorkriminalität, Vereinigtes Königreich, EU, rechtlicher Rahmen, Europäische Union (EU), Vereinigtes Königreich (UK), vergleichende Analyse, gesetzgeberische Maßnahmen, grenzüberschreitende Zusammenarbeit, Finanzkriminalität