

# The Experience of the Kingdom of Jordan in Combating the Crime of Money Laundering

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## Abstract:

This study is an attempt to tackle the crime of money laundering and shed light on the efforts of the Kingdom of Jordan in combating it. Money laundering is considered one of the prevalent crimes in most of the countries and one of the most complicated phenomena not only because of its wide prevalence, that makes it a thorn in the side of all of the developed and developing countries, but also because of the difficulty of forming, determining and defeating it. Therefore, the study aims at identifying the illegal money, how they are laundered and its systematic basis. It also shows the efforts of the Kingdom of Jordan in combating it nationally and internationally. In order to achieve these objectives, the study is divided into two sections. The first part tackles the concept of illegal money laundering by exploring its principal elements; the second one handles the efforts of the Kingdom in combating it nationally and internationally. The study is concluded with the results, recommendations, references and bibliography.

**Keywords:** Experience, Combating, Crime, Money laundering, Jordan

## 1. Introduction

Money laundering is one of the recent crimes that internationally appeared during the last years causing an international challenge for it exceeds the national borders and is connected to a lot of other crimes that lead to money laundering. Due to the dangerous crimes accumulating by money laundering, the Jordanian lawmaker legislated necessary laws in order to limit this crime. Money laundering is incriminated according to the Anti-Money Laundering Law No. 46 for the year 2007. Another law was issued to incriminate money laundering; i.e. Anti-Money Laundering and Counter Terrorist Financing, Act 2010, which forms the overall legal framework incriminating money laundering. In terms of the international cooperation for combating money laundering, Jordan plays a vital role in the good governance aiming at developing the initiative of Arab countries. It issued the ratification law of the Arab Convention on Combating Money Laundering No. 20 for the year 2012.

The Anti Money Laundering Law has assigned the authority responsible for combating money laundering in the Kingdom which is the National Committee of Ant Money Laundering. It was formed by all the concerned local authorities and it is responsible for the national coordination and cooperation in Jordan for combating money laundering. According to the provisions of the law, the Anti Money Laundering Unit was established. It has all the capacities to study and analyze the notifications that it receives and to ask for information from the authorities subject to the provisions of the law and any other judicial, supervisory, administrative and security authorities. This unit follows the administrative style in its work; tasks of judicial nature or related to law enforcement cannot be assigned to it.

This study is divided into an introduction, two sections and a conclusion, as follows:

### **Part I: The Legal Framework of Incriminating Money laundering:**

The First Section: The Concept of Money Laundering.

The Second Section: The Elements of Money Laundering.

### **Part II: The Efforts of the Kingdom of Jordan in Combating Money Laundering:**

The First Section: The International Efforts of the Kingdom in Combating Money Laundering.

The Second Section: The National Efforts of the Kingdom in Combating Money Laundering.

## 2. Statement of the Problem

The study explores the relation between the lawmaker's incrimination of money laundering as a criminal phenomenon of catastrophic risks on all the levels and the experience of the Kingdom of Jordan in combating it.

### *Questions:*

- 1- What is money laundering?
- 2- What is the legal framework of incriminating money laundering?
- 3- How could the Kingdom combat money laundering both nationally and internationally?

## 3. Significance

The significance of the study lies in what takes place in the present time of the increasing finance of money laundering and the diversity of its methods and means. Its deep effect on the state security and on the community's social interests entails studying this criminal act in deep.

### *Reasons of the Study:*

The reasons that made me tackle this topic are summed up as follows:

- 1- The community's awareness of the risks of this criminal phenomenon.
- 2- The effluent occurrence of money laundering and the craftiness and diversity of its criminals in concealing their crimes.
- 3- The amount of laundered money all over the world exceeds the amount of the international trade of Oil, ranked second after the international trafficking of firearms.
- 4- Limiting the prevalence of financing money laundering in the Arab community.

## 4. Objectives

- 1- Identifying the crime of money laundering.
- 2- Showing the attitude of the Jordanian lawmaker to the incrimination of money laundering.
- 3- Shedding light on the Jordanian experience in combating money laundering.

## 5. Conceptions

- 1- **Crime** is: "a conduct that is contrary to the instructions and prohibitions of the Panel Code provided that it is explicitly incriminated by this law".
- 2- **Finance** is: "looking for, selecting and assessing the suitable ways for getting money in order to get the best mixture of them in a way that fits the amount and type of the financial institution's obligations.
- 3- **Money Laundering** is: "laundering money through illegal methods in order to lend it legality by concealing its illegal sources."

## 6. Methodology

Because this study handles the crime of money laundering and the efforts of the Kingdom of Jordan in combating it, its approach is the comparative analytical descriptive one. Thus, I accurately describe this crime and the legal texts trying to answer the questions of the study. Also, I analyze them and suggest suitable solutions in order to achieve the major objective which is identifying money laundering in the Jordanian law and the methods of combating it.

*Limitation:*

The Legal Limit: The amended Anti Money Laundering and Terrorist Financing, Act 2010.

The Topic Limit: It handles money laundering and hence the study excludes other topics related to organized crimes except the necessary parts for the study without getting deep into all its parts in order to suggest legal solutions without unjustified redundancy and complication leaving a space for scholars and researchers to get deep into it.

## **Section I**

### **The Legal Framework of the Crime of Money laundering**

Money laundering is one of the most dangerous crimes generally affecting security and affecting economic security in particular because it is an organized crime of specific objectives (AlFikky, 2005, 44). A basic principle stipulated in the Jordanian Penal Code is: "No penalty without a law". Thus, any act cannot be incriminated except by a legal article. In addition, you cannot punish any person who committed a crime unless the law explicitly incriminates it, as mentioned in the third article of the Jordanian criminal law: "The offence is deemed to be committed immediately on occurrence of its acts without regard to the time of its result". This refers to the illegality of punishing the acts that are not explicitly incriminated by the law. Also, the eighth article of the Jordanian constitution stated: "No person may be detained or imprisoned except in accordance with the provisions of law". The Jordanian lawmaker has incriminated the act of money laundering in general by the Anti Money Laundering and Terrorist Financing Law for the year 2010. Therefore, in order to brief the legal framework of money laundering, we firstly explore the definition of money laundering and its nature in the first section. And then, we tackle the elements of the crime of money laundering in the second section.

#### **The First Part: The Concept of money laundering:**

This section is dedicated to defining money laundering and the legal nature of this crime.

#### **Firstly: The Definition of money laundering:**

Participating in international initiatives for combating money laundering and terrorist financing, Jordan has issued the Jordanian Anti Money Laundering Law which incriminates the acts of money laundering and terrorist financing in the Kingdom. In order to limit these crimes, the law assigns the crimes, responsibilities and the penalties resulted from breaking this law. The Jordanian lawmaker has identified money laundering in Paragraph (a) of the second article of the amended Jordanian Anti Money Laundering and Terrorist Financing, Act 2010 as: "Every conduct involving acquisition, possession, disposing of, moving, managing, keeping, exchanging, depositing, investing of funds or manipulating its value or movement and transferring, or any action that leads to conceal or disguise its source, origin, nature, place, disposition, ownership or related rights, with knowledge that the funds are proceeded of one of the crimes stipulated in article (4) of this law". Also, article no. (147) of the Jordanian Penal Code, that was amended according to the temporary law No. 54 for the year 2001, stated that: "Depositing money at any bank or financial institution which provides banking services in the kingdom or the transfer of such money by such institutions and banks to any other party is considered to constitute a terrorism crime if it was proven that such money is suspicious and is related to terrorist activities".

#### **Secondly: The Legal Nature of Money Laundering:**

Under the Jordanian Penal Code, money laundering is considered one image of organized criminal crimes that includes a number of subsidiary crimes, which are: crimes of business, finance, exchange, banking, commerce and monetary crimes such as tax and customs crimes. The Jordanian Economic Offences Code for the year 1993, in paragraph (a) of the third Article, has defined the economic crime as: "any crime subject to the provisions of this law, any crime considered by a special law as an economic crime, any crime causing damage to the

economic position of the Kingdom or to the public trust in the national economic, currency, stock, bonds and trading securities, or any crime related to the public fund". This text shows that the criterion of an economic crime depends on the nature of the crime on the one hand, and on the objective of the law incriminating and criminalizing it on the other. Money Laundering is on the one hand considered an ancillary offence crime and a crime that could be deliberated on the other.

- 1- As for being an ancillary crime, it assumes the occurrence of a previous original crime. Therefore, the activity of money laundering focuses on the money and outcomes resulted from this original crime (AlMasha'al, 1425H).
- 2- As for being able to be deliberated, it is the occurrence of the original crime in the territory of some country whereas the activity of money laundering is distributed on another; and hence the elements of the crime scatter across the borders which would make the criminal prosecution more difficult especially with the accompanying great troubles in the two fields of competence and the extent of admitting the force of the criminal provisions issued in the country of the original crime (Abdel Mon'em, 1998, 80).

### **The Second Part: The Elements of Money Laundering.**

As any other crime, money laundering consists of elements. Its material elements (*actus reus*) is the original crime that caused the illegal money such as drugs, bribe or terrorism. The criminal conduct is the transferring, transporting of money, concealing its source or place, having or using this money knowing its illegal source. Hence, it is an intended crime that does not entail inaction or negligence as a basis for the criminal responsibility. Additively, it is one of the continuous crimes although it is somewhat considered that the transferring is one of the instantaneous crimes (Fayez, 2002). In addition to the material element (*actus reus*) and the moral element (*mens rea*), there should be a legal text incriminating act. This text is the legal element and it is the existence of a text incriminating and criminalizing the activity of money laundering that causes this crime. Almost all the laws all over the world, including the Jordanian lawmaker, incriminate and criminalize this crime. The Jordanian lawmaker introduced a special law incriminating this crime. The legal framework of the crime of money laundering entails explaining its elements in the following branches:

#### **Firstly: The Legal Element of the Crime of Money Laundering:**

The legal framework of the crime is considered the legal text incriminating the detrimental acts which constitute the illegal nature of the act (Saleh, 2007). Its essence is a legal adaptation that covers the act. The reference of its identification is the rules of the Penal Code (Rashwan, 2006, 17). Consequently, there is "no penalty without a law" which is known as the principle of legality according to Article (3) in the Jordanian Penal Code that states: "No penalty shall be imposed unless provided for by the law at the time the crime is committed". According to the Jordanian lawmaker, money laundering is incriminated by the Anti Money Laundering Law. Article (2) of the law matches the conventions of Vienna and Palermo in identifying money laundering; all of them agree in the specification of *actus reus* and *mens rea*. In addition to the Anti Money Laundering Law, the Jordanian lawmaker has previously incriminated money laundering of the insurance activity under Article No. (52) from the Jordanian Insurance Regulatory Act No. (33), 1999. It should be noted that the scope of money laundering in insurance activities is limited. The definition mentioned in the Insurance Regulatory Act has confined to the acts of transferring, replacing, using or diversifying money and hence there is no reference to the acts of transporting, concealing, disguising, gaining or having it. Thus, it still not obvious if the Anti Money Laundering Law or the Insurance Regulatory Act are the special laws that will be applied in this domain. The crime of money laundering could be applied to the offender of the original crime but original crimes of money laundering do not include a number of crime categories because some of them are either not originally incriminated or not subject to criminal penalties. In the Jordanian law, original crimes are limited to crimes punishable by a criminal penalty or crimes mentioned in international conventions as considering their earnings a type of money laundering (Muhammadain, 2001). The crime of money laundering could be applied to any properties directly or indirectly derived from committing an original crime whose earnings are considered a type of money laundering under the provisions of the law (AlSarraj, 2007).

#### **Secondly: Actus Reus:**

## **1- The Criminal Conduct:**

For the actus reus of any crime to be achieved, the offender has to do a specific criminal act followed by a specific detrimental criminal result and there should be a causal connection between the two (Nosayrat, 2007, 32). However, incriminating money laundering does not require the occurrence of the criminal result (Hosny, 1984, 60). It is a crime of abstract conduct that does not necessitate the occurrence of a specific criminal result. In this regard, the Jordanian legal law is confined to the limit of the criminal conduct making it punishable regardless the result; even it lists the kinds of the conduct of the actus reus, as mentioned in Article (2) of the Jordanian Anti-Money-Laundering Law.

## **2- The Images of Money Laundering as a Criminal Conduct:**

Under Article (2) of the Jordanian Anti-Money Laundering Law, the images of the criminal conduct of money laundering are as follows:

- 1- Possessing, acquiring or using funds gained by criminal proceeds. This case is applied especially to banks and financial institutions whenever the bank learns the source of the illegal money, even if the deposit is a balance; i.e. opening an account, or a safety box (Abdel Mon'em, 1998, 15).
- 2- The transferring and moving of money: Money transferring is the material moving of the proceeds of a crime in order to conceal their illegal source and legalize them by taking them away from the place of the original crime or in order to help the offenders to go unpunished and unprosecuted (Soliman, 2002). This image is of a great importance as a kind of the organized transnational crimes because it involves the material moving of capitals from the country of the original crime which is the source of illegal money to another country where money is laundered by incorporating it in the economic circulation of the country where the money is to be invested either in real or fake projects in order to legalize it (AlSherbeini, 1999, 528).
- 3- Concealing or disguising the source of the proceeds of the crime: Each of the concealing and disguising are considered a stand-alone conduct not just an element of conduct (AlRashdan, 2007).
- 4- Contributing or participating in the crime: This image is divided into two cases:

### **a- Participating in or helping in the activities of money laundering:**

- 1- The criminal participation is a stage preceding the crime which is the stage of thinking over and preparing for the crime. The accomplice's role is limited to helping the original perpetrator because of his relation with the perpetrator. Thereby, he might pave the way to the perpetrator. The crime might not happen at its specific time and place without the help of the accomplice (Abdel Majeed, 2005).

Therefore, the ancillary image appears in the criminal participation where the original perpetrator embodies the typical conduct of the complete crime or the attempt to commit the crime, while the accomplice embodies his typical conduct (Rabah, 2004).

### **b- Conspiracy and Collusion:**

In this case, the actus reus is the image of a negative material conduct usually manifested as not reporting the concerned authorities of this crime (AlKasoos, 2002). Usually, this image occurs in the banking institutions that, because of their competence, uncover the processes of transferring, concealing or disguising aiming at laundering money and uncover the people involved (Suleiman, 2002).

## **Thirdly: The Subject of Incriminating Money Laundering:**

The subject of incriminating money laundering means all of the images of money or proceeds resulted from any criminal felony or misdemeanor. The Vienna Convention considers the subject of money laundering as any funds derived or yielded directly or indirectly from committing any of the crimes stipulated in Article (3),

paragraph (1). These crimes include the production, specification, extraction, preparation, selling or distribution of drugs, etc.

Article (4) of the Jordanian Anti Money Laundering Law considers the following proceeds as subject of money laundering:

- a- Any crime that is punished with felony penalty in accordance with valid legislations in the Kingdom, or crimes that any other valid legislation considers its proceeds to be subject to money laundering crime.
- b- Crimes stipulated by international agreements, to which Jordan adheres, that consider the proceeds of such crimes to be subject to money laundering crime, provided that the Jordanian law punishes such crimes, and the felony should be punished under the provisions of the Jordanian Penal Code No. 16 for the year 1960 and its amendments.

Thus, it is understood that the approach of the Jordanian lawmaker in assigning the subject of the crime of money laundering adopts the marginal approach so that the money proceeded by the crimes punished as a felony is considered subject of money laundering in addition to the offences mentioned in the international agreements, in which Jordan is part of, provided that they are punishable in the Jordanian law. It is noted that the text of Article (4), Paragraph (B) takes us to the international agreements whereas some crimes mentioned in the international agreements are not incriminated in the Jordanian law leading that the proceeds of all the crimes not mentioned in the Jordanian regulations are not considered subject of money laundering.

#### **Fourthly: The Mens Rea:**

For the crime of money laundering to take place, it is not sufficient that the perpetrator does any of the aforementioned images of criminal conduct that are only the actus reus, but there should be the mens rea that is the image of the criminal purpose or the case of intent (Suleiman, 2008). The mens rea represents the psychological origins for the materials of the crime and the psychological domination on it which means that the regulator does not consider these materials unless they are committed by a human being who could be asked about them and could bear their punishment (Kashkoosh, 2002).

At last, the mens rea is a necessary condition of the completeness and occurrence of a crime. Also, it is the basis of differentiation between whether the criminal had deliberately and knowingly intend to commit this crime or the crime was committed unintentionally (AlFikky, 2005).

#### **1- The General Criminal Purpose:**

##### **A- The Element of Knowing:**

Under Article (2) of the Anti-Money Laundering Law –in order that the criminal purpose be achieved- there should be the element of knowing of the crime occurrence whether it is derived from criminal proceeds of any illegal money. If this element is available then the mens rea or the criminal purpose is achieved; if it is not, then the criminal purpose is exculpated. If a person falls in ignorance or fault, the criminal purpose is exculpated because the ignorance of the subject of money laundering is ignorance of the facts. And hence knowing the facts should not be assumed, which leads to the exculpation of the criminal purpose and hence the element of intention (Hammam, 2001, 325).

##### **B- The Element of Will:**

Knowing is not sufficient to adopt the mens rea of the crime. Knowing the violations of law is not guilt per se (AlSaify, 2011). Instead, the element of will out of consciousness and awareness in order to commit the crime should be proved (Nosayrat, 2007, 34). For the mens rea of a money laundering crime to take place, the element of will that controls conduct should be proved. Article (2) of the Anti-Money Laundering Law insist the availment of this will for the crime of money laundering; i.e., the availment of the purpose of concealing or disguising of the illegal source in property transferring or transporting with the knowledge of the perpetrator that they are criminal proceeds. Will is the essence of purpose and the basis of assuming responsibility for any act. This “determination” should be conscious and untainted by an incident such as being insane, young, or drunk. Also, it should be out of choice and not tainted by a flaw such as coercion. If this will is exculpated, then the

mens rea is exculpated as well, which certainly leads to the non-availment of the money laundering crime (Mahdy, 1976, 120).

## **2- The Personal Criminal Purpose:**

The crime of money laundering is not sufficient with the general purpose but it requires a personal purpose which is the will of the criminal to conceal the real source of the illegal money or providing it a fake justification by all means, the will of the criminal to transfer or exchange the money knowing that they are illegal money in order to conceal or disguise its source, helping someone who is involved in committing the crime to get away without punishment, or the will to have, possess, manage, invest or use the illegal money to buy movables or non-movables or to perform transactions knowing that they are illegal money (Abdel All, 2003). As for the purpose requested by the Jordanian lawmaker in this crime, it is the general and personal criminal purposes. The law explicitly stipulates the general purpose in Article (2) on mentioning the images of the criminal conduct assigning the following sentence: "with knowledge that the funds are preceded of one of the crimes stipulated in article (4) of this law".

In addition, the Jordanian lawmaker stipulates the personal criminal purpose in Article (2) in the Anti Money Laundering Law: "or any action that leads to conceal or disguise its source, origin, nature, place, disposition mean, ownership or related rights", showing that purpose of the defendant was focused on concealing or disguising the source of the illegally acquired funds and making them appear as legally acquired.

## **The Second Section**

### **The Efforts of the Kingdom of Jordan in Combating the Crime of Money Laundering**

In the domain of legal cooperation, Jordan has concluded some international agreements that represent the suitable legal framework of Jordan in giving legal help besides giving this help through the International Criminal Police Organization (INTERPOL). The national coordination and cooperation in Jordan is the responsibility of the National Committee of Anti Money Laundering formed pursuant to the provisions of the Anti-Money Laundering Law. In addition, under the law, the Anti Money Laundering Unit was established; it is the concerned party of receiving notifications about the suspicious transactions from the parties subject to the provisions of this law. This unit follows the administrative style in its work; tasks of judicial nature or related to law enforcement cannot be assigned to it. The Central Bank, the Securities Commission Council and the Insurance Commission are the most important censorship and supervision parties on the financial sector. These parties have the competence to observe the works of these subordinate institutions under the laws that organize this work within the framework of its work in combating money laundering, each security agency is responsible for combating the operations of money laundering (Hegazy, 2007). In this part, we will show the practical and legislative efforts of the Kingdom both on the national and international levels in order to eliminate this crime. This part is consisted of the following sections:

#### **The First Part: The international efforts of the Kingdom in combating money laundering.**

According to the report of Basel Institute on Governance (Addustour, A Jordanian Newspaper, 2014), Jordan is ranked third on Arab countries as for the indicator of combating money laundering, and it is also ranked 122 all over the world, with a total of 5.02 points and is classified "above-average". This year (2016), the indicator included 19 Arab countries. Amman was the best of them in combating money laundering with a total of 4.79 points, and it was ranked 134 globally, whereas Qatar recorded 4.96 and was ranked second on Arab countries and 126 globally. Jordan is ranked third on Arab countries as for the indicator of combating money laundering issued by Basel Institute on Governance because of its efforts in combating money laundering and terrorist financing (Addustour, A Jordanian Newspaper, 2014). It combats the operations of money laundering through the unit established pursuant to the provisions of the Anti-Money Laundering and Terrorism Finance No.46 for the year 2007 and its amendments. The efforts of the Kingdom in combating money laundering are obvious through its international cooperation through international conventions and conferences.

#### **Firstly: The Efforts of the Kingdom on the Level of International Conventions:**

*1- The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.*



Jordan ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna) on 1/4/1989 under the law published in the Official Gazette (Issue No 3620). This convention is the first and most important one embodying the reinforcement of international cooperation in combating money laundering. It is the first international legal document accrediting specific provisions and measures to combat money laundering used or proceeded from illegal trafficking of drugs and issues related to expropriating and confiscating of the proceeds of crime. Additively, it includes some procedures of combating and punishing the criminals (Fayadh, 2004, 46). This convention incriminates the operations of money laundering with all of its stages; i.e. whether it is related to the transferring of money yielded from the illegal trafficking of drugs and psychotropic substances, moving, concealing or disguising its illegal source intending to help the criminals to get away without punishment. But these texts stipulate the knowledge that these money are yielded from any crime or crimes related to the illegal trafficking of drugs or psychotropic substances (Hosny, 1984).

## 2- *The United Nations Convention against Transnational Organized Crime (Palermo – 2000).*

Jordan signed the United Nations Convention against Transnational Organized Crime (Palermo-2002) ratified on 22/5/2009. This convention stated taking the necessary procedures in order to combat the organized crime. It considers the operations of money laundering as one of four major types of crimes related to the operations of organized crime which are punishable by the law. This convention is one of the important international documents in combating the crime of money laundering. It pays attention to incriminating the operations of money laundering because it represents a major purpose for the gangs of the organized crime (Mahdy, 1976). Despite a lot of this money is preceded from the illegal trafficking in drugs and psychotropic substances, other activities of organized crimes form a high ratio of the total of illegal proceeds that become part of the world financial law. This convention follows the steps of Vienna convention but it is more accurate in specifying the original crimes, preventive and repressive measures for the crime of money laundering (Abdel All, 2013, 54).

## 3- **The Council of Europe Treaty (1990):**

The Council of Europe member states and some other countries have signed this treaty in 1990. It completes the international cooperation as for the operations of money laundering obliging the member states to incriminate money laundering yielded from dangerous criminal activities. In addition, it demands them to make legalizations that include texts that allow the confiscation of the crime proceeds, tracking the properties that could be confiscated and preventing its disposing or transferring its ownership (Barakat, 2006). Thus, before we move to the efforts of the Kingdom in the international conferences, we have handled its most prominent international cooperation in these conventions in order to combat the crime of money laundering.

### **A- Expanding the Criminal and Juridical Capacity.**

The Vienna Convention has asserted the principle of territoriality in holding the capacity in the prosecution of the offenders of money laundering whether the crime is committed on the territory of the party country, on a ship raising its flag or on a plane recorded by its law in the time of the crime. Also, this convention has adopted the principle of personality in its positive part allowing the capacity to be held in the offender's State of nationality. And it has adopted the principle of universality allowing the capacity to be held in the state of the offender's habitual residence (AlAkoor, 2012). A lot of countries expanded its juridical capacity to include the crime of money laundering after considering this act an independent crime and a crime of terrorism (AlRashdan, 2007). Paragraph (b) of Article (2) in the Jordanian Penal Code assures this stating that: "Any act related to any transactions especially depositing money at any bank or financial institution which provides banking services in the kingdom or the transfer of such money by such institutions and banks to any other party is considered to constitute a terrorism crime if it was proven that such money is suspicious and is related to terrorist activities".

### **B- Extradition of Criminals:**

The Jordanian Anti Money Laundering and Terrorist Financing Law states in Article (22) the extradition of criminals and convicted persons. But it should be noted that the crime of money laundering does not cover all the requested original crimes which would affect the state capacity in international cooperation especially that the Law necessitates providing help under the rules of the Jordanian laws, bilateral and multilateral agreements of which the Kingdom is a party or under the principle of reciprocity. However, there is the difficulty of addressing and tracking the criminals who committed financial and economic crimes after leaving the national territory.



Although the Kingdom participates in international efforts in combating money laundering crimes and all the crimes in general by signing so many international conventions and treaties either bilaterally or multilaterally (AlMubarak, 2004), the Kingdom still fails to track those who flee abroad after the misapplication of huge funds of the treasury with the knowledge that the major criminals who fled from the Jordanian judiciary take refuge to the West capitals that are considered a safe place and a resort to the outlaws. This makes the mission more difficult and takes more time excluding the negligence of the International Police in helping the Jordanian authorities to catch the outlaws (The Report of Mutual Assessment of Combating Money Laundering, Jordan, 2009, 211).

### **C- International Letters Rogatory:**

In criminal matters, international letters rogatory is considered one of the most important indispensable procedures especially in the transnational crimes that necessitate mutual legal help (Saleh, 2006). International letters rogatory is stipulated in the national laws, the international conventions and the principle of reciprocity. The Jordanian lawmaker has stated the concept of international letters rogatory in Article (22) of the Anti-Money Laundering and Terrorism Finance Law.

### **D- The Mutual Legal Help:**

The Anti-Money Laundering Law created the legal basis for mutual legal cooperation and help as for the investigation of money laundering causes. Article (22) states: "To achieve the intended purposes of this law, the Jordanian judiciary parties shall cooperate with foreign judiciary parties; in particular regarding the assistance, judiciary representation, extradition of accused and convicted individuals and proceeds, in addition to the requests of foreign parties to pursue, freeze or seize funds related to money laundering crimes in accordance with rules set by Jordanian legislations and bilateral or multilateral agreements in which Jordan is part of, and on reciprocal basis without any prejudice to the rights of the persons who have good will". Article (23) adds that: "Jordanian judiciary parties have the right to order the implementation of the requests of foreign judiciary parties to confiscate proceeds related to money laundering crimes in accordance with rules set by Jordanian legislations and bilateral or multilateral agreements in which Jordan is part of".

Some of the most important conventions of legal and judicial cooperation excluded by Jordan are:

- The Agreement on Legal and Judicial Cooperation in Civil and Commercial Matters, Personal Status and Penal between Jordan and Kuwait.
- The Agreement on Legal and Judicial Cooperation between Jordan and the United Arab Emirates, 1999.
- The Agreement on Legal and Judicial Cooperation between Jordan and Qatar, 1997.
- The Agreement on Legal and Judicial Cooperation between the States of the Arab Cooperation Council, 1989.

*Secondly: The Efforts of the Kingdom in Combating Money Laundering on the Level of International Conferences.*

### **1- The Conference of Egmont Group to Combat Money Laundering and Terrorism Finance.**

The Kingdom participated in the plenary meeting of Egmont Group ([www.egmontgroup.org](http://www.egmontgroup.org)) held in Saint Petersburg/Russia during the period from July 11th-13th, 2012 where the Egmont Group Plenary Meeting announced the Hashemite Kingdom of Jordan's membership to the Egmont Group (Kottayshat, 2014). This membership is part of the Kingdom's national, regional and international efforts for combating money laundering and terrorism finance. One of the duties of the Egmont Group is to reinforce the international cooperation between the financial intelligence units (FIUs) in the fight against money laundering and financing of terrorism. The Egmont Group was established by a number of (FIUs) in 1995 and is comprised currently of (127) member countries which has operational financial intelligence units.

## **2- The Seventeenth Conference of Counter-Terrorism Officials in Arab countries.**

Jordan has participated in the Seventeenth Conference of Counter-Terrorism Officials in Arab Countries opened on Wednesday September 18, 2014 in Tunis in the secretariat of the Council of Arab Ministers of the Interior with the presence of representatives of Ministries of the Interior of Arab member states and Naif Arab University for Security Sciences (Saudi Press Agency, 1435H). Some of the most important results of the Kingdom's international cooperation in international conferences combating money laundering are:

- a- The Kingdom has legislated laws necessary to combat money laundering and terrorism finance under the international criteria in this regard.
- b- A national committee for combating money laundering and terrorism finance has been established. It is concerned with formulating the public policy for combating money laundering terrorism finance.

### **The Second Part: The Efforts of the Kingdom on the Internal Level for Combating Money Laundering:**

In general, Jordan is considered one of the countries clean of money laundering because it neither produces nor consumes drugs, nor does it manufacture firearms. However, due to Jordan's central position, it became a central point in the trafficking of drugs and firearms leading that it always does its best to combat money laundering through the role of banks and executing the directives issued by the Central Bank and through the efforts of the national unit and committee (AlAkoor, 2012).

#### **Firstly: The Role of National Banks in Combating Money Laundering.**

Banks are some of the most important elements in combating money laundering because these operations are mainly made through banks. The responsibility of banks is not only limited to confiscating these funds but also it expands to include the verification of the sources of these suspicious funds (AlMash'al, 1425H).

Therefore, in order banks not to be subject to penal responsibility, they ought to take the necessary procedures to censor the customers performing transactions whether they were normal or legal persons. In addition, they should report the formal authorities about any suspicious transactions otherwise they would bear the whole penal responsibility. In order that banks combat and limit money laundering, they should keep the information and records of all the banking transactions for a specific period of time (AlRashdan, 2007, 134). Jordanian lawmakers are keen on keeping the banking system clean, so they issued some necessary related legislation such as the Jordanian Banking Code, the directives of the Jordanian Central Bank, and the directives of combating money launderings in insurance activities.

#### **1- The Directives of the Central Bank:**

Jordan has recognized early the risky consequences of the operations of money laundering, so the Jordanian Central Bank was one of the first central banks issuing directives to the banks; e.g., (Know your Customer), 1997, a guidance manual for combating money laundering. The Central Bank is the regulatory authority responsible for the rightness of the banking system. In order to increase the efficiency and effectiveness of banks in performing the banking transactions, protect them from the risks of using them in the operations of money laundering and terrorism finance (Kottayshat, 2014, 103), consolidate the right banking practices, and cope with the global modern developments in this domain, the Central Bank has issued some directives for combating money laundering and terrorism finance in 2006, which were amended under the directives No. 42 issued on 3/7/2008. According to these directives, banks are obliged to stick to them. Also, the Central Bank has developed a guidance manual to help identifying the suspicious patterns of the operations of money laundering and terrorism finance. This manual is supposed to be a guide for educating the bankers and to be updated. Emphasizing the important role of the Central Bank in the domain of money laundering, its censorship extends to include the overall works of banks and especially the banking operations in order not to be away of censorship (AlAkoor, 2012, 225). As for the international efforts in addressing the obstacles of combating money laundering, the directives urge the banks to cooperate in combating this crime because it is an international one (Kottayshat, 2014, 105), meaning that it does not happen nor is it limited to a single country. This crime may begin in some country and then moves to another producing its elements in a third or fourth country which entails the international efforts and the national efforts and legislations to be side by side so that we could limit this crime.

## **2- The Jordanian Banking Code:**

Since the Jordanian Banking Code No.28 for the year 2000 was issued, Article (93) became the cornerstone of combating money laundering even its text includes all the banking operations, delivering or paying money related to any crime or any illegal act. Under the law, the Central Bank and other banks are obliged to take specific procedures as follows:

- a- If a bank learns that the execution of any banking transaction or the receipt or payment of funds is related to or could be related to any crime or illegitimate act, the bank shall immediately notify the Central Bank accordingly.
- b- Notwithstanding the provisions of any other legislation, upon receiving a notice pursuant to paragraph (A) of this Article, or upon knowledge from another source that the bank has been asked to execute a banking transaction or to receive or pay funds related or could be related to a crime or an illegitimate act, the Central Bank shall issue an order to such bank to refrain from executing the transaction or receiving or paying the funds for a period not exceeding thirty days. In the meantime, the Central Bank shall notify any official or judicial authority of the matter.
- c- Disclosure of information by a bank under the provisions of this Article shall not be regarded as a breach of the obligation to maintain banking confidentiality. Such bank or the Central Bank shall bear no consequent liability.

However, there are some obstacles of combating money laundering from the banks. These obstacles are related to bank secrecy that is considered the most important obstacle of combating money laundering because it prevents detecting the funds deposited in banks and hence it becomes a shelter for suspicious funds. This is because banks are keen on not providing the necessary information about their clients except what is allowed by laws in order to protect the personal rights for those clients.

## **3- The Insurance Sector:**

The Insurance Commission is responsible for censoring the parties subject to its censorship in order to verify its commitment to the provisions of the Insurance Regulation Act and the issued directives and decisions according to the law and by the commission as the directives for combating money laundering in the insurance activates No.3 of 2007. The insurance commission has the legal personality, financial and administrative independence and hence by this character it possesses the movables and non-movables necessary to achieve its objectives and it performs all the legal acts including the concluding of contracts, and the acceptance of assistance, donations, grants and endowment. It has the right of litigation and, in juridical procedures, it is represented by the civil general attorney or any other attorney appointed for this purpose. The directorates of the insurance commission are responsible for the on-site inspection and office censorship on the insurance companies in the domain of combating money laundering (Al Akoor, 2012).

### **Secondly: The Efforts of the National Unit and Committee in Combating Money Laundering and Terrorism Finance.**

In addition to the efforts of the Kingdom in combating money laundering, especially making legalizations and regulations incriminating this phenomenon, it has consistently established a lot of commissions and committees such as:

#### **1- The National Committee for Combating Money Laundering.**

Article (5) of the Anti-Money Laundering Law states forming a national committee for combating money laundering named "the National Committee of Anti Money Laundering".

Under Article (6) of the same law, some of the tasks and authorities of this committee are:

- a- Formulation of general policy of anti-money laundering.
- b- Supervision over the implementation of the tasks assigned to the Unit.

- c- Facilitation of the exchange of information related to money laundering transactions and coordination among the related parties.
- d- Participation in international forums related to the general policy of anti-money laundering.

## **2- The Anti Money Laundering Unit.**

The Anti Money Laundering and Terrorism Finance Unit was established pursuant to the provisions of law no. (46) for the year 2007, the Anti-Money Laundering and Terrorism Finance Law, and its amendments. It is located in the Central Bank as an independent unit. The unit shall be competent to receive the notifications related to any operation suspected to be related to money laundering or terrorism finance, to request, analyze and investigate the related information and to provide them to the concerned authorities when necessary in order to combat money laundering and terrorism finance. As for its most important achievements in combating money laundering, an anti-money laundering unit received a group of (81) notifications about suspicious operations: 68 notifications from the banking sector, 3 notifications from bureaux de change, 9 notifications from the regulatory authorities and one notification from a financial company. The unit worked on keeping and following (under consideration) (75) notifications while it referred 3 notifications related to money laundering to public prosecution. Also, it referred 3 other notifications of other crimes to public prosecution (The Report of Mutual Assessment of Combating Money Laundering, Jordan, 2009, 217). In addition, the Anti-Money Laundering Unit referred nine causes to the Public Prosecutor to be investigated in money laundering crimes in the last three years out of 613 reported cases. The Unit indicated the referring of 4 cases in each of 2011 and 2012, and one case in 2013.

### **Results**

By exploring the Jordanian experience in combating the crime of money laundering, the author ended up with many important results that should be highlighted and achieved. These results are as follows:

- 1- This study shows the efforts of Jordan in combating money laundering. Jordan sought to participate in international efforts for combating money laundering by adapting its legal system with the international system and by forming the national unit and committee for combating money laundering which were assigned to combat and limit this crime.
- 2- Despite the strenuous efforts of Jordan in combating money laundering, the concept of money laundering is still new which entails launching great awareness campaigns about it in all the state sectors and on all the levels.
- 3- This study shows that no effective combat of money laundering can achieve its aspired objectives without the cooperation of the banking sector. This cooperation is multifaceted involving: firstly, the great concern and censorship over the movement of funds; secondly, reporting all the suspicious transactions; thirdly, international cooperation between financial institutions and exchanging information together.
- 4- Not issuing directives for combating money laundering in insurance activities depending on the Anti-Money Laundering Law so that stipulated penalties could be imposed on the enterprises that offend the implications of the directives.

### **Conclusion**

Praise be to Allah for his blessings; Peace be Upon Muhammad bin Abdullah; May Allah be pleased with the Companions and Successors. This is what I could introduce in this study that I wish to have assigned the general framework of the Jordanian experience in combating the crime of money laundering on both the international and national levels. After exploring and introducing this topic, we ought to show the results and recommendations.

### **Recommendations:**

In this study, the author reaches some recommendations as follows:

- 1- Establishing security units dedicated to combating money laundering and providing it with highly-qualified and highly-practiced staff.
- 2- Upgrading professional effectiveness of the officials of combating money laundering nationally and internationally allowing them to improve their skills by exposing to special expertise and identifying modern techniques to uncover the operations of money laundering and track the perpetrators.
- 3- Increasing the training efforts especially training related to financial analysis and identifying suspicious operations.
- 4- Reconsidering banking secrecy which is a secure place for criminal gangs in addition to increasing the penalties on these gangs.
- 5- Issuing directives for combating money laundering in insurance activities under the Anti Money Laundering Law so that its penalties would be applied to companies that break the implications of directives.
- 6- Forming an Arab organization like the international Egmont Group to include the all financial investigation units in the Arab World. Its basic task is to develop comprehensive Arab strategy for combating the crimes of money laundering, exchange information and coordinate the Arab efforts in this framework.
- 7- Activating the role of The National Committee of Anti-Money Laundering by developing effective policies and mechanisms that include the methods of cooperation between the authorities concerned with combating money laundering. It also puts the mechanisms of communication and consultancy with the financial sector and other sectors.
- 8- Enforcing the role of the financial sector's censorship and supervision by supporting the institutions to commit to reporting the authorities of suspicious operations.

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