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Mechanisms for International Criminal Cooperation in Combating Money Laundering

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Abstract

This research examines the mechanisms of international criminal cooperation in combating the crime of money laundering as one of the most serious forms of transnational organized crime posing a direct threat to the economic and security stability of states. The study focuses on the international nature of money laundering and the international legislative framework established to combat it, particularly through the Vienna and Palermo Conventions, as well as the recommendations issued by the Financial Action Task Force (FATF).

The research also addresses the principal forms of international criminal cooperation in combating money laundering crimes, including judicial delegation, extradition, enforcement of foreign criminal judgments, and controlled delivery operations, while clarifying the position of the Iraqi legislator under the Anti-Money Laundering and Counter-Terrorism Financing Law No. (39) of 2015.

The study concludes that the effectiveness of combating money laundering depends largely on the efficiency of international cooperation and information exchange among states, in addition to the continuous development of domestic legislation in line with modern international standards aimed at confronting the evolving methods employed by organized criminal groups.

Keywords: Money Laundering, International Criminal Cooperation, Judicial Delegation, Extradition, Enforcement of Foreign Criminal Judgments, Controlled Delivery, Organized Crime, FATF.

Introduction

Over the past decades, the world has witnessed rapid developments in economic, financial, and technological activities, accompanied by a parallel evolution in the methods of transnational organized crime, particularly economic crimes targeting the financial and banking systems of states. Among these offences, money laundering has emerged as one of the most dangerous and complex crimes, as it constitutes the link between various predicate offences—such as illicit drug and arms trafficking, financial and administrative corruption, and terrorism financing—and the legitimate economy that criminal organizations seek to infiltrate in order to legitimize illicit proceeds.

Money laundering may be defined as any conduct aimed at concealing or disguising the illicit origin of proceeds derived from criminal activity, whether through transferring, converting, investing, or integrating such proceeds into legitimate economic activities with the intention of presenting them as

lawful funds. This offence is characterized by several features that enhance its seriousness, most notably its transnational nature, its reliance on modern technological and banking mechanisms, its close association with international organized crime, and the difficulty of detecting and proving it due to the complexity of the financial transactions involved.

The crime of money laundering is further based on essential legal elements, namely the existence of a predicate offence generating illicit proceeds, the commission of a material act intended to conceal or disguise the true nature of such proceeds, and the existence of criminal intent reflected in the offender's knowledge of the unlawful origin of the funds and the intention to provide them with an appearance of legitimacy.

First: Significance of the Research

The significance of this research stems from the practical importance and growing danger of money laundering at both the national and international levels. The effects of this crime are no longer confined to the economic sphere alone; rather, they extend to political, security, and social dimensions due to their impact on undermining confidence in financial and banking systems, threatening economic stability, and supporting organized criminal activities and terrorism financing.

The importance of this research is also reflected in its examination of the role played by international criminal cooperation in combating money laundering, particularly after the international nature of this crime became an obstacle to the effectiveness of traditional criminal jurisdiction. This has compelled states to adopt advanced forms of judicial and security cooperation, including mutual legal assistance, judicial delegation, extradition, enforcement of foreign criminal judgments, and controlled delivery operations.

Second: Research Problem

The research addresses the following principal question:

To what extent has international criminal cooperation, within the framework of international conventions and modern domestic legislation, succeeded in establishing effective mechanisms to combat the transnational crime of money laundering?

Several subsidiary questions arise from this main issue, including:

1. What is meant by the transnational nature of money laundering?
2. What is the international legislative basis for combating money laundering?
3. To what extent are the existing forms of international criminal cooperation sufficient to combat this offence?
4. Has the Iraqi legislator succeeded in complying with modern international standards in the field of anti-money laundering and counter-terrorism financing?

Third: Research Hypothesis

This research is based on the hypothesis that money laundering, due to its international nature and close connection with organized crime, cannot be effectively combated solely through traditional domestic mechanisms. Rather, it requires international criminal cooperation founded upon unified legal rules and advanced legislative and procedural mechanisms capable of ensuring information exchange, mutual legal assistance, tracing illicit proceeds, and confiscating criminal assets.

The research further assumes that the Iraqi legislator has been significantly influenced by modern international trends when regulating anti-money laundering and counter-terrorism financing provisions. Nevertheless, the effectiveness of these legislative measures remains dependent upon practical implementation and the degree of international coordination among competent authorities.

Fourth: Research Methodology

This research adopts an analytical and comparative methodology by analyzing national and international legal texts related to combating money laundering, examining the positions of international conventions and comparative legislation, and relying on relevant doctrinal opinions and judicial applications in order to assess the effectiveness of international criminal cooperation in confronting this crime.

Fifth: Structure of the Research

The nature of this research requires its division into two chapters.

The first chapter addresses the legal foundation and international nature of the crime of money laundering by examining the transnational character of the offence and the international legislative framework established to combat it.

The second chapter examines the forms of international criminal cooperation in combating money laundering, particularly in relation to judicial delegation, enforcement of foreign criminal judgments, and controlled delivery operations.

Chapter One: The International Nature of Money Laundering and the Legal Basis for Combating It

Money laundering has become one of the most serious contemporary economic crimes and one of the offences most closely associated with transnational organized crime, due to its negative impact on the economic, financial, and security stability of states. Technological development and global financial openness have facilitated the transfer of illicit funds across borders, thereby giving this crime a complex international character and rendering traditional domestic legislation insufficient to combat it effectively.

In response to this form of criminality, the international community has moved toward establishing an integrated international legislative framework based on judicial and security cooperation,

information exchange, criminalization of laundering activities, and the deprivation of illicit financial proceeds. Likewise, national legislations, including Iraqi legislation, have sought to harmonize their domestic laws with the international obligations arising from modern conventions and international standards concerning anti-money laundering and counter-terrorism financing measures.

Accordingly, this chapter is divided into two requirements. The first examines the transnational nature of the crime of money laundering, while the second addresses the international legislative framework for combating money laundering.

Section 1: The Transnational Nature of Money Laundering:

Money laundering is no longer regarded as a traditional crime with limited domestic effects; rather, it has become one of the most dangerous and complex forms of international economic crime due to its exceptional ability to transcend political and geographical borders. This development has been facilitated by the tremendous growth of the global financial system, economic liberalization, and technological advances in banking and electronic transfer systems. Consequently, contemporary criminal jurisprudence classifies money laundering among transnational or cross-border crimes whose effects and jurisdiction extend beyond the territory of a single state.(1)

The transnational character of money laundering is reflected in the complex nature of the acts constituting the offence. In many cases, the predicate offence is committed in one state, the illicit proceeds are transferred to another state, while concealment, disguise, or integration operations are conducted in a third state. Such fragmentation creates serious jurisdictional conflicts, multiplicity of investigative authorities, and significant difficulties in tracing illicit funds.(2) Therefore, money laundering is not realized through a simple or isolated domestic act; rather, it occurs through a sophisticated chain of financial and banking transactions intended to conceal the illegal origin of the proceeds and to provide them with an appearance of legitimacy. This explains why international organizations consider it one of the most serious manifestations of transnational organized crime.(3)

The United Nations Convention against Transnational Organized Crime of 2000 (Palermo Convention) affirmed this approach by considering an offence transnational when it is committed in more than one state, planned or directed in one state and executed in another, or committed by an organized criminal group operating in more than one country.(4) Accordingly, money laundering naturally falls within this description because of its close connection with international financial movements and transnational criminal networks.

(1) Ahmed Musharif Al-Kubaisi, The Criminal Confrontation of Money Laundering in Iraqi Law: A Comparative Study, PhD Dissertation, Faculty of Law, Cairo University, 2025, pp. 67 ff. and pp. 89 ff.
(2) Baraa Munther Kamal Abdul Latif & Mowafaq Ali Ubaid, Enforcement of Foreign Criminal Judgments in Iraq: A Comparative Study, Tikrit University Journal for Humanities, Vol. 15, No. 11, 2008, p.199 ff.
(3) Abdulilah Al-Khani, National Criminal Judiciary and Transnational Crimes, Vol. 1, Al-Matba'a Al-Jadida, Damascus, 1964, pp. 295 ff.
(4) Article 3 of the United Nations Convention against Transnational Organized Crime, 2000 (Palermo Convention).

Furthermore, technological developments in banking and financial systems have deepened the international dimension of money laundering, particularly with the emergence of instant electronic transfers, digital banking, offshore shell companies, and virtual currencies. These mechanisms have enabled criminal organizations to move and conceal illicit funds rapidly and beyond the reach of traditional supervisory mechanisms[5] , As a result, the gap between criminal sophistication and conventional enforcement methods has widened, compelling the international community to adopt more advanced instruments of judicial cooperation, information exchange, and financial intelligence measures.[6]

In this context, the Financial Action Task Force (FATF) emphasized that money laundering constitutes a direct threat to the global financial system and that combating it cannot be achieved solely through isolated domestic legislation. Instead, it requires an integrated international framework based on information exchange, mutual legal assistance, judicial cooperation, and international banking coordination.[7] Consequently, states have become obligated to modernize their legal systems in accordance with international standards, particularly regarding suspicious transaction reporting, financial disclosure obligations, and cross-border monitoring of financial flows.

An important aspect of the transnational nature of money laundering is its close association with predicate offences of an international nature, such as illicit drug trafficking, arms trafficking, human trafficking, corruption, and terrorism financing[8] . The proceeds generated from such offences require sophisticated laundering processes in order to be reintegrated into the legitimate economy, making money laundering an essential component of organized criminal activity. For this reason, international efforts to combat money laundering began with the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention), which was the first international instrument to oblige states to criminalize the laundering of proceeds derived from drug-related crimes.[9]

In comparative judicial practice, the French Court of Cassation has ruled that money laundering offences may be prosecuted even if the predicate offence was committed outside French territory, provided that the effects of the money laundering extend to the French financial system, thereby emphasising the cross-border nature of this offence and the need for international cooperation in combating it.[10]

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[5] Ahmed Musharif al-Kubaisi, op. cit., p. 164, and p. 372.
[6] Baraa Munther Kamal Abdul Latif & Fatima Shabib Al-Samarrai, International Criminal Cooperation in Controlled Delivery Operations, Tikrit University Journal for Legal and Political Sciences, No. 25, 2016, p.5 ff.
[7] Financial Action Task Force (FATF)، Forty Recommendations on Combating Money Laundering and Terrorist Financing.
[8] Ahmed Musharif al-Kubaisi, op. cit., p. 164, and p. 22.
[9] United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (Vienna Convention).
[10] Cass. crim., 20 février 2008, Bull. crim. No. 42.

Criminal law scholars further argue that the real danger of money laundering lies not only in concealing illicit proceeds, but also in its ability to infiltrate national economic and financial systems, undermine monetary and banking stability, and facilitate the financing of terrorist organizations and organized criminal groups.(11) Therefore, combating money laundering is no longer merely a domestic issue concerning a single state; rather, it has become a collective international responsibility requiring continuous coordination among different legal and judicial systems.

The transnational character of money laundering has also contributed to the emergence of modern forms of criminal jurisdiction that transcend the traditional territoriality principle. States increasingly rely on protective, personal, and universal jurisdiction to combat international economic crimes, including money laundering, in order to prevent offenders from escaping punishment by transferring funds or relocating across borders.(12)Consequently, modern legislations, including Iraqi legislation, have expanded mechanisms of international cooperation through mutual legal assistance, extradition, recognition and enforcement of foreign judgments, and controlled delivery operations.

It is evident that, in enacting the Anti-Money Laundering and Counter-Terrorism Financing Law No. (39) of 2015, the Iraqi legislator aligned itself with modern international trends in combating organized financial crimes. Accordingly, the Law devoted a separate chapter to international cooperation, regulating information exchange, mutual legal assistance requests, and extradition procedures. This reflects the legislator's awareness of the transnational nature of money laundering and the necessity of moving beyond the traditional concept of national criminal sovereignty.(13)

Section 2: The International Legislative Framework for Combating Money Laundering:

The rapid evolution and international expansion of money laundering crimes compelled the international community to establish a unified international legislative framework to combat this phenomenon, particularly after traditional domestic mechanisms proved inadequate in confronting organized economic crime(14) By its nature, money laundering is closely linked to cross-border capital movement and benefits from legislative discrepancies among states, banking secrecy, and open financial systems. Consequently, combating this crime requires international cooperation based on unified legal rules and coordinated legislative mechanisms.(15)

The earliest international efforts to regulate anti-money laundering measures emerged alongside the rise of illicit drug trafficking during the 1970s and 1980s, when it became evident that the enormous financial proceeds generated from such crimes posed a serious threat to the global economy and

(11) Baraa Munther Kamal Abdul Latif, The Role of Criminal Legislation in Combating Money Laundering, published research, p.14 ff.
(12) Abdulilah Al-Khani, op. cit., p.296 ff.
(13) Iraqi Anti-Money Laundering and Counter-Terrorism Financing Law No. 39 of 2022 FATF015, Chapter IX on International Cooperation.
(14) Ahmed Mushrif al-Kubaisi, op. cit., p. 17 and p. 106.
(15) Abdulilah Al-Khani, National Criminal Judiciary and Transnational Crimes, Vol. 1, Al-Matba'a Al-Jadida, Damascus, 1964, p.295 ff.

national financial systems.[16] As a result, the United Nations adopted the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention), which constituted the first international instrument obligating states to criminalize money laundering linked to drug-related proceeds.[17]

The Vienna Convention was significant not merely because it criminalized money laundering, but also because it established the legal foundation for international cooperation in combating the offence through provisions concerning mutual legal assistance, extradition, tracing criminal proceeds, and confiscation of illicit assets. Furthermore, the Convention marked a turning point in international criminal policy by shifting the focus from prosecuting predicate offences alone to targeting the financial proceeds derived from them and depriving criminal organizations of their economic resources.[18]

With the development of organized crime and the emergence of new forms of money laundering associated with terrorism, corruption, and transnational criminal activity, the Vienna Convention alone became insufficient to address the growing threat. This prompted the international community to adopt the United Nations Convention against Transnational Organized Crime of 2000 (Palermo Convention) [19]. The Palermo Convention broadened the scope of predicate offences capable of generating laundered proceeds, extending beyond drug offences to encompass all serious crimes producing illicit financial gains.[20]

The Palermo Convention further emphasized the necessity for states to adopt effective domestic legislation against money laundering, establish specialized financial intelligence units, strengthen judicial and security cooperation among states, and implement modern mechanisms for information exchange and cross-border tracing of illicit assets.[21] Consequently, the Convention became one of the most important international legal instruments shaping modern criminal policy against money laundering and organized crime.

In addition, the Financial Action Task Force (FATF) has played a pivotal role in developing the international legislative framework against money laundering through its Forty Recommendations, which now represent the principal international standards in this field.[22] These recommendations focus on customer due diligence obligations, suspicious transaction reporting, financial record

[16] Mujahidi Ibrahim, International and Domestic Legal Mechanisms for Preventing Drug Crimes, Journal of the Academy for Social and Humanitarian Studies, No. 5, 2010, p.87.
[17] United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (Vienna Convention).
[18] Article 7 of the Vienna Convention of 1988.
[19] Baraa Munther Kamal Abdul Latif, The Role of Criminal Legislation in Combating Money Laundering, published research, p.16 ff.
[20] United Nations Convention against Transnational Organized Crime, 2000 (Palermo Convention).
[21] Article 6 of the Palermo Convention of 2000.
[22] Ahmed Mushrif al-Kubaisi, op. cit., p. 17 and p. 106.

keeping, and the enhancement of international cooperation and information exchange among competent financial authorities.

The significance of FATF Recommendations extends beyond their technical nature to their substantial practical impact on national legal and economic systems. These recommendations have become an international benchmark for evaluating states' compliance with anti-money laundering and counter-terrorism financing obligations. Failure to comply may result in a state being placed on gray or black lists, with severe economic and banking consequences.[23]

In practical terms, the Financial Action Task Force (FATF) recommendations have prompted many countries to amend their national legislation to bring it into line with international standards, The Group's reports have also become a key reference in assessing countries' compliance with anti-money laundering and counter-terrorist financing measures, which has had a direct impact on banking and supervisory policies in a number of Arab countries, including Iraq.[24]

As part of strengthening international cooperation, numerous regional agreements addressing money laundering were concluded, including Arab conventions on judicial and security cooperation designed to facilitate information exchange, extradition, and enforcement of foreign criminal judgments.[25] Arab national legislations, including Iraqi legislation, have been significantly influenced by these agreements and international standards.

This influence is clearly reflected in the Iraqi Anti-Money Laundering and Counter-Terrorism Financing Law No. 39 of 2015, whereby the Iraqi legislator adopted modern international approaches concerning criminalization, confiscation, international cooperation, the establishment of a specialized Anti-Money Laundering Office, and mechanisms for information exchange, mutual legal assistance, and extradition.[26] This demonstrates the Iraqi legislator's awareness that combating money laundering is no longer a purely domestic matter, but rather part of an integrated international system requiring harmonization between domestic legislation and international standards.

Modern legislative trends further demonstrate that the international legislative basis for combating money laundering no longer relies solely on traditional punitive measures; instead, it is increasingly founded on a comprehensive preventive policy aimed at preventing the misuse of banking and financial systems for laundering illicit proceeds.[27] Accordingly, contemporary legislation imposes legal obligations upon banks and financial institutions and subjects' financial transactions to monitoring and disclosure requirements in order to protect both national and international economies.

[23] Financial Action Task Force (FATF), Forty Recommendations on Money Laundering and Terrorist Financing.
[24] Financial Action Task Force (FATF), International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, Paris, 2023.
[25] Ahmed Wahab Al-Kubaisi, op. cit., section on the role of international standards in combating money laundering.
[26] Riyadh Arab Agreement for Judicial Cooperation of 1983.
[27] Iraqi Anti-Money Laundering and Counter-Terrorism Financing Law No. 39 of 2015.

Chapter Two: Procedural Aspects of International Criminal Cooperation in Combating Money Laundering

The continuous rise in transnational crime rates is considered one of the most alarming phenomena of the modern era. The rapid development of communication and transportation technologies has significantly contributed to the increase in crimes committed by individuals beyond the borders of their own states. Such developments have provided sophisticated means that facilitate the commission of criminal activities, while also enabling offenders to conceal the traces of their crimes and hinder efforts aimed at detecting and prosecuting them. Moreover, the ease of movement has allowed criminals to flee swiftly to other countries and seek safe haven there, thereby misleading investigations and imposing complex and burdensome challenges upon the competent authorities.

This issue is not limited to ordinary offenders; it also involves professional criminals possessing advanced technical expertise and sophisticated capabilities. Some of these individuals operate within highly organized transnational criminal groups that conduct their activities with precision and coordination, posing a serious threat to the security and stability of societies. Consequently, it has become imperative for states and nations to strengthen their collective efforts in confronting this phenomenon and mitigating its destructive consequences.

To achieve this objective, it is necessary to reinforce international cooperation by reducing judicial barriers that separate national legal systems and by developing the rules of international criminal law in a manner consistent with contemporary challenges and evolving realities. Such progress can only be attained through effective international cooperation founded upon several principal bases. First, expanding the jurisdiction of states so that their judicial authorities may adjudicate the widest possible range of crimes committed outside their territories. Second, establishing modern procedural rules for international criminal proceedings that ensure the effective implementation of extradition measures and enhance cooperation between judicial and law enforcement authorities. Third, recognizing and enforcing criminal judgments across different states in order to prevent offenders from escaping punishment. This latter basis constitutes one of the most significant forms of international cooperation in combating crime and represents the primary focus of this research.

It is noteworthy that the Iraqi legislator placed significant emphasis on the principle of international cooperation in Law No. (39) of 2015, dedicating Chapter Nine of the law specifically to this principle. Article (27) thereof provides that: “The crimes of money laundering and terrorist financing shall be considered among the offenses in which judicial delegation, legal assistance, coordination and cooperation, and extradition may be applied, in accordance with the provisions of the agreements to which the Republic of Iraq is a party.

In fact, the legal foundation of the principle of international cooperation lies in international law, including international, regional, and bilateral agreements, in addition to the principle of reciprocity. At the national level, this principle is further reinforced through domestic legislation enacted by the

national legislature in a manner consistent with the international conventions and treaties ratified by the state.

It is evident that the Iraqi legislator accorded special attention to the principle of international cooperation in the Anti-Money Laundering and Counter-Terrorism Financing Law No. (39) of 2015 by dedicating Chapter Nine of the Law to the regulation of this principle. Article (27) thereof provides that the crimes of money laundering and terrorist financing are among the offenses in respect of which judicial delegation, legal assistance, international coordination and cooperation, as well as extradition procedures, may be applied in accordance with the provisions of the international agreements to which the Republic of Iraq is a party.

From a legal perspective, the principle of international cooperation is founded upon the rules of public international law and the various international, regional, and bilateral agreements it encompasses, in addition to the principle of reciprocity between states. At the domestic level, this principle is reflected through national legislation enacted by the legislature in a manner consistent with the state's international obligations and ratified agreements.

Section 1: International Criminal Cooperation in the Field of Judicial Delegation:

It can be inferred from Article (27) of the Anti-Money Laundering and Counter-Terrorism Financing Law that judicial delegation constitutes one of the most significant forms of international criminal cooperation adopted by the Iraqi legislator in combating transnational crimes. This mechanism is regarded as one of the principal means of international cooperation emphasized by the majority of international conventions concerned with combating organized and serious crimes.

The importance of judicial assistance has become evident in practice in cases involving the cross-border transfer of illicit funds, where judicial authorities seek to contact foreign authorities to obtain banking information, hear witnesses, or seize funds and proceeds derived from crime, which constitutes one of the most prominent aspects of international criminal cooperation in money laundering offences.[28]

Among the most prominent of these conventions is the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. Article Seven thereof obliges States Parties to respond to requests for judicial delegation in matters relating to hearing witness testimony, serving judicial documents, carrying out search and seizure procedures, examining objects, inspecting locations relevant to investigations, and providing other states with available information and evidence concerning drug-related offenses.

The same convention also stressed the importance of facilitating judicial delegation procedures through the adoption of direct channels of communication between the Ministries of Justice of the States Parties as an alternative to traditional diplomatic channels, which may consume considerable

[28] Riyadh Arab Agreement for Judicial Cooperation of 1983, Article 18.

time. Such measures contribute to enhancing the speed and effectiveness of international cooperation in the prosecution and suppression of crimes.[29]

Judicial delegation, in its advanced form, constitutes one of the most important manifestations of mutual legal assistance between states. It begins with a request submitted by one judicial authority to another for the purpose of undertaking a specific judicial investigative measure. Within the framework of international criminal cooperation, judicial delegation refers to the authorization granted by a national judicial authority to a foreign judicial authority—or vice versa—to carry out particular legal or investigative procedures relating to a transnational crime.

Among the most notable examples of such procedures are hearing witness testimonies, tracking persons or goods within the framework of controlled delivery operations, searching suspected locations for the seizure of narcotic substances or proceeds derived from crime, as well as confiscating documents and exhibits connected with money laundering or terrorist financing offenses.

At the national level, and given that judicial delegation arises within the framework of a legal relationship between two states, the requesting state is required to submit its request through diplomatic channels to the Supreme Judicial Council in Iraq. Upon examining the request and its accompanying documents, the Council may determine that the request satisfies the required legal conditions and that the execution of the requested measure does not conflict with the Iraqi legal system. In such a case, the request is referred to the territorially competent investigating judge to undertake the necessary procedures and execute the judicial delegation.

Furthermore, a representative of the requesting state may attend the implementation of the requested procedure. Accordingly, the requesting authority must be informed of the place and time of executing the judicial delegation, thereby enabling the concerned party to attend personally or through a legally authorized representative.[30]

After the completion of this preliminary stage, the phase of executing the requested measure begins, provided that such execution is legally permissible. Upon completion of the procedure, the investigating judge is required to submit the documents and records related to the judicial delegation to the Supreme Judicial Council, which in turn transmits them to the requesting state through the approved diplomatic channels.[31] If the judicial delegation relates to a matter not permitted under Iraqi legislation, or if its execution becomes impossible due to legal or practical circumstances, the competent authorities are obligated to notify the requesting state through the recognized diplomatic channels.

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[29] Mujahidi Ibrahim, Mechanisms of International and National Law for the Prevention of Drug Crimes, Journal of the Academy for Social and Human Studies, No. 5, 2010, p. 87.

[30] Articles 353–354 of the Code of Criminal Procedure, as well as Article (18) of the Riyadh Arab Agreement for Judicial Cooperation of 1983, provide that…. Tradition.

[31] Paragraph (c) of Article (354) of the Code of Criminal Procedure.

In this context, it should be noted that the Riyadh Arab Agreement for Judicial Cooperation, signed in April 1983[32], regulated the situations in which the execution of requests for judicial delegation may be declined and specified the cases that permit States Parties to refuse compliance with such requests, as follows:

" a. If the execution does not fall within the jurisdiction of the judicial authority of the requested Contracting Party.

b. If the execution would prejudice the sovereignty of the requested Contracting Party or affect its public order.

c. If the request relates to an offense considered by the requested Contracting Party to be a political crime."

In the event that the request for judicial delegation is refused or its execution becomes impossible for any reason, the requested authority is obligated to notify the requesting authority accordingly, while returning the relevant documents and records and specifying the reasons that led to the refusal or impossibility of execution.

Extradition represents one of the most prominent forms of international criminal cooperation in combating crime, as it is regarded as one of the most effective legal mechanisms for pursuing offenders and ensuring that they do not evade accountability and punishment.[33] Due to the importance of this measure, the Iraqi legislator expressly referred to it in the Anti-Money Laundering and Counter-Terrorism Financing Law No. (39) of 2015. Article (27) thereof provides that the crimes of money laundering and terrorist financing are among the offenses in respect of which extradition procedures may be applied.

Since extradition implicitly involves the surrender by the requested state of the exercise of its judicial jurisdiction in favor of a foreign judicial authority, the legislator established a number of explicit legal conditions that must be fulfilled in order to apply this method of international cooperation. These conditions are as follows:

1. If the person sought for extradition is accused of committing a crime, including money laundering and terrorist financing offenses, it is required that the offense have been committed within the territory of the requesting state or outside it, with the exception of crimes committed within Iraq, which remain subject to the jurisdiction of the Iraqi judicial authorities. It is also required that the laws of both states punish the offense by imprisonment or detention for a period of no less than two years, or by a more severe penalty. This requirement is known as the principle of "double criminality.[34]" The Iraqi legislator also adopted this principle in the Anti-Money

[32] Article (17) of the Riyadh Arab Agreement for Judicial Cooperation of 1983.
[33] Baraa M. K. Al-Latif, Explanation of the Criminal Procedure Code, 5th edn, Yadgar Press, Sulaymaniyah, 2016, pp. 404–414.
[34] Abd al-Ilah al-Khani, National Criminal Judiciary and Cross-Border Crimes, vol. 1, Al-Jadida Press, Damascus, 1964,

Laundering and Counter-Terrorism Financing Law No. (39) of 2015, as Article (28) of the law expressly provides that: "No request for extradition or legal assistance shall be executed pursuant to the provisions of this Law unless the laws of the requesting state and the laws of the Republic of Iraq punish the offense that is the subject of the request or a similar offense, and the requirement of double criminality is satisfied, regardless of whether the laws of the requesting state classify the offense within the same category of crimes or use the same terminology employed under Iraqi law to describe the offense, provided that the act constituting the subject matter of the request is criminalized under the laws of the requesting state.", It is not permissible to recognize or enforce a foreign judicial judgment that imposes a penalty unknown to domestic legislation, nor may a request for extradition be granted in relation to an act that is not considered a criminal offense under the law of the requested state.

2. If the person requested for extradition has been convicted of any offense, including money laundering and terrorist financing crimes, it is required that the imposed sentence be imprisonment or detention for a period of not less than six months, or a more severe penalty.[35] With regard to this condition, it is noteworthy that Iraqi legislation does not require the judicial judgment to have acquired final and binding status. This is because an accused person may be extradited even during the investigation stage, provided that the necessary legal conditions are fulfilled. Therefore, it is all the more justifiable to permit the extradition of a convicted person even if the judgment issued against him has not yet become final and conclusive.
3. Where extradition is requested for multiple offenses, it is sufficient that the required legal conditions be satisfied in respect of one of those offenses for the extradition request to be considered valid and admissible.[36]

With regard to cases in which extradition is prohibited, the legislator specified certain categories of offenses for which extradition may not be granted, most notably political[37] and military[38] crimes. The determination of whether an offense is political or military shall be made in accordance with Iraqi law.

pp. 295–296.

[35]Article 357(a) of the Code of Criminal Procedure provides that…

[36]Article 357(b) of the Code of Criminal Procedure provides that…

[37] Article (21) of the Iraqi Penal Code No. 111 of 1969, as amended, provides that the legislator excluded five categories of offenses from being regarded as political crimes, and money laundering and terrorist financing offenses are not among those excluded categories.

[38] With regard to the determination of military offenses, it is noted that the Military Code of Criminal Procedure No. (30) of 2007 serves as the reference for defining the nature of such crimes, taking into consideration Article (41/a) of the Riyadh Arab Agreement for Judicial Cooperation, which expressly excludes political and military offenses from the category of crimes for which extradition may be granted.

A. The extension of national judicial jurisdiction to crimes committed outside the territory of the state, whereby the accused may be tried before Iraqi courts even though the offense was committed abroad.(39)

B. Extradition may not be granted if the person sought is under investigation or trial before Iraqi courts for the same offense, or if the criminal case brought against him has already been adjudicated in Iraq by a conviction or acquittal judgment, or if a decision ordering his release has been issued by an Iraqi court or an Iraqi investigating judge. Extradition shall also be prohibited where the criminal proceedings have lapsed in accordance with Iraqi law or the law of the requesting state for any reason leading to extinction of the action, such as amnesty or prescription.(40)

C. The person sought for extradition enjoys the legal protection guaranteed by the requested state, as in the case where the person requested to be extradited from Iraq is an Iraqi national. [2] Owing to the importance of this condition, it was expressly affirmed by the Iraqi Constitution of 2005 in Article 21(First), which provides that: " "The extradition of an Iraqi to foreign authorities and entities is prohibited."

It should be noted that the person sought for extradition may also be wanted in Iraq in connection with another criminal case. If he is under investigation or trial before the Iraqi judiciary, consideration of the extradition request shall be postponed until a decision ordering his release or acquittal is issued. However, if a conviction judgment is rendered against him, the consideration of the extradition request shall be deferred until the sentence imposed by the Iraqi judiciary has been fully executed. (41)

Section 2: Enforcement of Foreign Criminal Judgments:

A criminal judgment, in its general sense, is defined as "a decision issued by a court in relation to a dispute brought before it in accordance with the law, resolving the subject matter of the case or a matter that must be determined prior to deciding the merits thereof."[1] A foreign criminal judgment, on the other hand, refers to a judgment rendered by a foreign judicial authority possessing jurisdiction to pronounce it in the name of the foreign sovereignty to which that judiciary belongs.(42)

What concerns us in relation to foreign criminal judgments are the decisions issued by foreign criminal courts concerning conviction, release, or acquittal. Accordingly, judgments awarding

(39) Article 358(2) of the Code of Criminal Procedure, as well as Articles 6–13 of the Penal Code concerning territorial, subject-matter, personal, and universal jurisdiction, should be taken into consideration.
(40) Article 358(3) of the Code of Criminal Procedure, as well as Article 41(5)(g) of the Riyadh Arab Agreement for Judicial Cooperation, should be taken into consideration.
(41) Article 359 of the Code of Criminal Procedure should be taken into consideration.
(42) Ahmed Shawqi Al-Shalqani, Principles of Criminal Procedure in Egyptian Legislation, Dar Al-Nahda Al-Arabiya, Cairo, 2006, p. 734.

compensation issued by foreign criminal courts fall outside the scope of this study, since the nature of the issuing authority does not alter their legal character.[43]

Likewise, the reliance of Iraqi courts upon judgments of foreign or international courts for the purpose of interpreting analogous provisions of domestic law also falls beyond the scope of this research, as such reliance does not amount to the enforcement of foreign or international criminal judgments, although it may reflect a convergence between national and international judicial approaches in combating crimes of an international or humanitarian nature.[44] Nevertheless, despite the significance of recognizing foreign criminal judgments, particularly in light of the evolution of criminal methods and the expansion of criminal activities across borders—where the planning of a crime may occur in one state while its execution takes place in another, as is the case with many money laundering offenses and their predicate crimes such as drug trafficking, arms trafficking, and financial and administrative corruption—opinions remain divided between those who reject the recognition of foreign criminal judgments and those who support it.

In light of the foregoing, international criminal cooperation has not remained confined to judicial delegation alone; rather, it has extended to the recognition and enforcement of foreign criminal judgments within limited boundaries. An example of this is Article (31) of Law No. (39) of 2015, which provides that: "The competent Iraqi authorities shall execute final criminal judgments issued by competent foreign judicial authorities relating to the confiscation of funds derived from money laundering and terrorist financing offenses and their proceeds, in accordance with the rules and procedures contained in bilateral or multilateral agreements to which Iraq is a party, and the confiscation judgment shall be enforced on the basis of reciprocity." Such enforcement, however, requires the clarification and regulation of several issues, including the financial proceeds resulting from confiscation, whether the enforcing state is entitled to a share thereof and the extent of such share, as well as the legal position where the confiscated assets are originally Iraqi property or where Iraqi nationals possess rights connected to such assets. Despite these complexities, the recognition of foreign criminal confiscation judgments in cases of money laundering and terrorist financing remains a positive and significant development in the field of international cooperation aimed at combating these crimes.

In this context, comparative jurisprudence—particularly in Italy—has tended to recognize foreign judgments relating to the confiscation of proceeds from organized crime and money laundering, provided that the guarantees of a fair trial and the principle of reciprocity are met, with the aim of

[43] Mahmoud Naguib Hosni, Explanation of the Penal Code – General Part, Dar Al-Nahda Al-Arabiya, Cairo, 1989, p. 412.
[44] Abdel Fattah Bayoumi Hegazy, Enforcement of Foreign Judgments in Civil, Commercial, and Criminal Matters, Dar Al-Fikr Al-Jami'i, Alexandria, 2004, p. 95.

preventing offenders from benefiting from criminal proceeds by transferring them to other countries.[45]

However, in our view, recognition of foreign criminal judgments should extend beyond mere enforcement and include recognition of such judgments as precedents for recidivism where both the prior and subsequent offenses involve money laundering or terrorist financing crimes, owing to the grave danger they pose not only to society and the state, but also to the international community as a whole. Support for this approach may be found in the Narcotic Drugs Law No. (65) of 1968, as amended, whereby Article Fourteen/Eighth provides that: "A foreign judgment shall be taken into account in applying the provisions on recidivism stipulated in Article (139) of the Penal Code[46] if the judgment was issued in relation to narcotics offenses punishable under this Law." This proposal is justified by the need for a strict criminal policy toward perpetrators of money laundering and terrorist financing offenses, whether the prior criminal judgment is national or foreign. Accordingly, we propose that the legislator amend Paragraph (Third) of Article (139) of the Penal Code so that it reads as follows:

"A foreign judgment shall not be taken into consideration in the application of the provisions of this Article except where it concerns money laundering and terrorist financing offenses, or offenses involving the counterfeiting, imitation, or forgery of Iraqi or foreign currency."

Section 3: Cooperation in the Field of Controlled Delivery:

There is no doubt that many money laundering and terrorist financing offenses are committed within the framework of organized crime, and organized crime requires the concerted efforts of the international community in order to combat it effectively, whether at the national, regional, or international level. Accordingly, the United Nations Convention against Transnational Organized Crime was adopted in 2000 and entered into force in 2003.[47] Pursuant to this Convention, Iraq became bound by the obligations imposed upon States Parties concerning international cooperation in combating organized crime in all its forms and manifestations, including money laundering and terrorist financing offenses. The Convention also introduced modern methods of international cooperation, among which is the technique of "controlled delivery."[48]

[45] Scdbupreme Court of Cassation of Italy, Judgment No. 18374 of 2013.
[46] Article (139) of the Penal Code provides that: "A person shall be deemed a recidivist:
First: Any person who has been finally convicted of a felony and is subsequently proven, before the expiration of the legally prescribed rehabilitation period, to have committed another felony or misdemeanor.
Second: Any person who has been finally convicted of a misdemeanor and is subsequently proven, before the expiration of the rehabilitation period prescribed by law, to have committed any felony or a misdemeanor similar to the first misdemeanor …"
[47] Iraq ratified this Convention and its two supplementary Protocols in 2007 pursuant to Law No. (20) of 2007.
[48] Baraa Munther Kamal Abdul Latif & Fatima Shabib Al-Samarrai. (2016). International Criminal Cooperation in the Field of Controlled Delivery. Journal of Tikrit University for Legal and Political Sciences, 7(25), 5 ff.

This term refers to a method whereby illicit funds or materials are allowed to continue their movement into, through, or out of a country with the knowledge of the competent national authorities and the competent authorities of another state, in coordination between them and under the supervision of the states through which such funds or materials pass, for the purpose of identifying the persons involved in the commission of the crime.

It appears that the Iraqi legislator adopted this method in the Anti-Money Laundering and Counter-Terrorism Financing Law No. (39) of 2015, although the term "controlled delivery" was not expressly used, as reflected in the provisions of Article (30) of the Law: "The competent judicial authorities may, upon a request from a judicial authority in another state that is linked to the Republic of Iraq by an agreement or on the basis of reciprocity, decide to trace, seize, or confiscate funds, proceeds, revenues, means, and instruments used or intended for use in the commission of a money laundering offense, the predicate offense resulting therefrom, or a terrorist financing offense, or their equivalent value, provided that this does not conflict with Iraqi law and without prejudice to the rights of bona fide third parties."

It is noteworthy that controlled delivery is divided into two types: domestic and international. Domestic controlled delivery refers to situations in which the movement of funds derived from crime, together with the laundering operations conducted upon them, remains entirely within the borders of a single state from beginning to end. In such cases, seizure procedures are deliberately postponed, and the funds are allowed to move freely under the supervision of the competent authorities until they reach their final destination, after which all perpetrators and accomplices are apprehended, rather than limiting arrest to the mere possessor or transporter of the shipment. This procedure does not generally raise legal difficulties, as it merely constitutes a postponement of arrest and seizure measures in the hope of achieving more effective results.

The French Court of Cassation has authorized the use of controlled deliveries in cases involving drug trafficking and money laundering, provided that they are carried out under the supervision of the competent judicial authorities, and has deemed it a legitimate means of uncovering organized criminal networks and identifying their key members.[49]

International (or external) controlled delivery, on the other hand, involves two or more states and is carried out under the supervision, monitoring, and cooperation of the competent authorities in the states through which the funds or materials pass. Since the controlled delivery technique enables law enforcement agencies to apprehend all persons involved in the commission of the offense or participation therein while in flagrante delicto, through continuous monitoring measures, it also assists the competent authorities in gathering substantial information regarding organized networks engaged in trafficking illicit proceeds or financing terrorism. Moreover, it contributes to identifying and arresting the principal masterminds behind such criminal operations. For this reason, many states

[49] Cass. crim., 4 novembre 1999, Bulletin criminel No. 249.

have concluded agreements concerning this mechanism,[50] and numerous Arab legislations have likewise adopted it.[51]

Nevertheless, the Iraqi legislator did not expressly regulate this method in the Code of Criminal Procedure No. (23) of 1971, particularly within Chapter Seven entitled "Judicial Delegation and Extradition."

Given that international criminal cooperation is not confined merely to judicial delegation and extradition, but also extends to the recognition of criminal judgments within specific limits, as well as to the mechanism of controlled delivery, we therefore call upon the legislator to amend the title of Chapter Seven (Articles 352–368) of the Code of Criminal Procedure so that it becomes "International Criminal Cooperation" instead of "Judicial Delegation and Extradition," and to ensure that it encompasses all forms of international cooperation in a manner consistent with the international agreements ratified by the Government of Iraq.

Since the various forms of international criminal cooperation cannot effectively achieve their objectives in combating crime without the parallel existence of information exchange, institutional development, and constructive cooperation among states—particularly neighboring states—the Iraqi legislator, in Law No. (39) of 2015, devoted attention to regulating several forms of informational cooperation aimed at enhancing institutional performance in combating money laundering and terrorist financing offenses. Among the most significant of these forms are the following:

1. Pursuant to Article 7(9), the legislator entrusted the Council for Combating Money Laundering and Terrorist Financing with the task of monitoring international developments and emerging trends related to combating money laundering and terrorist financing, as well as proposing appropriate measures and procedures to address such developments.
2. Furthermore, under Article 7(12), the Council was granted the authority to adopt effective and proportionate countermeasures against states that fail to comply with international standards relating to anti-money laundering and counter-terrorist financing measures.
3. In addition, Article 7(15) assigned the Council the responsibility of monitoring the implementation of sanctions imposed as a consequence of non-compliance with United Nations Security Council resolutions, particularly those concerning terrorist financing and the suppression and prevention of the proliferation of weapons of mass destruction.

[50] Among these agreements are the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, and the United Nations Convention against Transnational Organized Crime of 2000.
[51] Among these legislations are the Banking Secrecy Law No. 205 of 1990, the Egyptian Anti-Money Laundering Law No. 80 of 2002, the Qatari Anti-Money Laundering Law No. 28 of 2002, and Law No. 4 of 2002 concerning Money Laundering in the United Arab Emirates. For further details regarding these legislations and others, see: Baraa Munther Kamal Abdul Latif, The Role of Criminal Legislation in Combating Money Laundering, previously cited source, pp. 14–18.

4. As for the Anti-Money Laundering and Counter-Terrorism Financing Office, Article 9(4) entrusted it with the duty of participating in the representation of the Republic of Iraq in international organizations and conferences related to combating money laundering and terrorist financing.
5. The Office was also empowered, pursuant to Article 9(9), to provide technical advice concerning accession to international agreements and treaties relating to money laundering and terrorist financing offenses.
6. Moreover, under Article 19(1), the legislator authorized the Office to exchange information, either spontaneously or upon request, with foreign counterpart units performing similar functions and subject to equivalent confidentiality obligations, while observing the principle of reciprocity and the provisions of international and bilateral agreements.

It is noteworthy that specialists in combating financial and administrative corruption frequently attribute the spread of such corruption to the improper appointment of individuals to public positions. Such offenses are considered among the principal underlying causes of money laundering and terrorist financing crimes. Consequently, the effective suppression of money laundering cannot be achieved without a strict criminal policy directed toward combating financial and administrative corruption. Likewise, the success of such a policy depends upon adherence to the principle of "placing the right person in the right position."

Conclusion

This research demonstrates that money laundering constitutes one of the most dangerous forms of transnational organized crime due to the serious threat it poses to the economic and security stability of states, as well as its close connection with organized crime and terrorism financing. The international nature of this crime has necessitated the development of international criminal cooperation mechanisms and the strengthening of coordination among judicial, security, and financial authorities in order to confront it effectively.

The study further reveals that international conventions, particularly the Vienna and Palermo Conventions, together with the recommendations issued by the Financial Action Task Force (FATF), have contributed to establishing a unified international legislative framework for combating money laundering and enhancing forms of international cooperation such as mutual legal assistance, extradition, enforcement of foreign criminal judgments, and controlled delivery operations.

At the national level, the Iraqi legislator has attempted to keep pace with these developments through the enactment of the Anti-Money Laundering and Counter-Terrorism Financing Law No. (39) of 2015, which adopted several modern mechanisms relating to international cooperation. Nevertheless, the effectiveness of these legal provisions remains dependent upon proper practical implementation, the development of information exchange mechanisms, and the strengthening of judicial and security cooperation with other states.

Accordingly, combating money laundering is no longer merely a domestic issue concerning a single state; rather, it has become a shared international responsibility requiring continuous cooperation and effective coordination in confronting the evolving methods employed by organized criminal groups.

First: Findings:

1. Money laundering constitutes a transnational crime closely associated with organized crime and terrorism financing, making its suppression beyond the limits of traditional domestic criminal jurisdiction.
2. International criminal cooperation has proven to be the most effective means of combating money laundering crimes through judicial delegation, extradition, enforcement of foreign criminal judgments, and controlled delivery operations.
3. International conventions, particularly the Vienna and Palermo Conventions, have contributed to establishing a unified international legal framework for combating money laundering and strengthening cooperation among states.
4. The Iraqi legislator has been influenced by contemporary international trends in regulating anti-money laundering and counter-terrorism financing provisions under Law No. (39) of 2015.
5. Efforts to combat money laundering continue to face practical challenges related to technological developments and insufficient information exchange between certain states.

Second: Recommendations:

1. Strengthening international cooperation and simplifying procedures relating to mutual legal assistance and extradition in order to ensure greater speed and effectiveness in pursuing money laundering offenders.
2. Continuously developing national legislation in accordance with international conventions and the recommendations of the Financial Action Task Force (FATF).
3. Enhancing information exchange among specialized anti-money laundering authorities at both the regional and international levels.
4. Supporting judicial and supervisory authorities with modern technologies and specialized expertise necessary for detecting money laundering operations and tracing illicit proceeds.
5. Strengthening oversight over financial and banking institutions and imposing stricter obligations concerning the reporting of suspicious financial transactions.

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