



## Tax Crimes and Money Laundering of Criminal Proceeds

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### Abstract

Tax evasion and money laundering of criminal proceeds are two phenomena that present significant challenges for modern economies and justice systems. Tax evasion involves any action aimed at avoiding tax obligations, including the inaccurate reporting of income, hiding sources of income, and utilizing complex structures to minimize taxes and duties. This results in severe consequences for public finances, reducing the resources necessary for public services and economic development. On the other hand, money laundering involves the process of transforming illegally obtained funds into visible assets, giving them a legitimate appearance. This process often includes the use of financial institutions, shell companies, and complex transactions to conceal the origin of the funds. Money laundering is a global issue that impacts the stability of financial systems and increases the risk of other crimes, such as corruption and trafficking. The fight against tax evasion and money laundering requires an integrated approach that includes enhancing transparency, strengthening legislation, and fostering international cooperation. Effective policies should involve educating taxpayers, enhancing the capacity of tax administrations, and creating robust mechanisms for penalizing violators. Only through collective commitment and a coordinated approach can there be a significant reduction in these phenomena, ensuring a fairer and more effective fiscal system.

**Keywords:** Tax, money, evasion, justice, fiscal

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### 1. Introduction

Tax evasion is one of the most concerning phenomena for modern economies, posing a major challenge to tax systems and sustainable economic development. In the Albanian context, this issue has taken on significant proportions, negatively impacting the collection of public revenues and the financing of public services. Concealing income and failing to pay taxes are forms of tax evasion that are often accompanied by the laundering of criminal proceeds, further complicating the situation. Albanian jurisprudence has developed a unique approach to these issues, offering a legal framework aimed at combating tax evasion and strengthening the integrity of the tax system.

In this paper, we will examine various legal positions regarding income concealment and tax non-payment, as well

as the implications of these actions in the laundering of criminal proceeds. Tax crimes will be analyzed through the lens of a parent criminal offense related to money laundering.

Furthermore, we will analyze the changes in tax legislation in accordance with the directives of the European Union. Does the change in tax legislation and the fight against tax evasion play a facilitative role in the battle against money laundering? Do we continue to face significant tax evasion in our country, particularly in light of the alignment of tax legislation with EU directives?

In conclusion, this paper will provide a comprehensive overview of the challenges and potential solutions in the fight against tax evasion in Albania as part of the broader struggle against money laundering, highlighting the importance of close cooperation between the state and the private sector to achieve a more efficient and transparent tax system.

## 2. A General Overview of Tax Evasion and Its Link to Money Laundering of Criminal Proceeds

The concept of tax evasion, according to the science of finance, refers to all actions aimed at reducing or eliminating the fiscal contribution to the state's treasury by individuals or entities, in violation of specific fiscal laws and regulations. Tax evasion involves the non-payment of tax obligations arising from the law. ( **State Web** )

The term "tax evasion" encompasses the intentional concealment or avoidance of tax obligations through various means, such as the failure to submit documents or the non-declaration of data (e.g., sales or realized income), falsifying accounting and tax documentation, and obtaining falsified documents to artificially inflate business expenses or deductible VAT, leading to an inaccurate calculation of the tax amount due. Tax evasion also includes the hiding of income to evade or avoid paying tax liabilities. This description highlights that tax evasion is not limited to direct actions like underreporting income but extends to a broader range of deceitful practices that undermine the integrity of tax systems. When these actions are linked to money laundering, they add a layer of complexity, as illegal funds derived from tax evasion can be laundered to make them appear legitimate, further complicating enforcement efforts and legal frameworks. (www.tatime.gov.al,)

**The Organisation for Economic Co-operation and Development (OECD)** describes tax evasion as a term that is difficult to define but is generally used to refer to illegal arrangements where tax obligations are hidden or disregarded. In other words, tax evasion occurs when a taxpayer pays less tax than they are legally obligated to, by concealing income or information from tax authorities. (OECD, Glossary of Tax Terms)

According to various studies, special emphasis has been placed on distinguishing between the terms **tax evasion**—which refers to illegal activities aimed at reducing taxes—and **tax avoidance**, where the reduction is achieved legally. The intent behind and the methods used to reduce a tax obligation are crucial in characterizing the behavior. For example, since individuals involved in tax evasion do not seek to fulfill their legal obligations, tax evasion involves the omission, concealment, or misrepresentation of information. This behavior is a defining feature of criminal tax evasion. Tax evasion is not merely a failure to pay a known debt; it is carried out by withholding or hiding relevant information with the goal of "convincing" the tax inspector to charge less than what should be paid. In contrast, those involved in tax avoidance aim to fulfill their legal obligations. On one end of the spectrum, tax avoidance involves benefiting from fiscal incentives provided by the legislation; on the other, it involves structuring one's affairs to take advantage of gaps or unintended consequences in the legislation. This distinction is important because while tax avoidance can often be considered legitimate, tax evasion is inherently illegal and represents an intentional attempt to circumvent tax laws. (Bourton S. (2024), 1.2 p.15-16) .

According to the "International Standards on Combating Money Laundering and the Financing of Terrorism" set by FATF, money laundering crimes should apply to all serious offenses, encompassing a broad range of primary criminal offenses. The FATF Glossary includes 21 primary criminal offenses, including tax crimes. In practice, tax crimes, along with drug trafficking, corruption, and fraud, are among the most common sources of money laundering. ( The FATF Recommendations )

If we look at comparative interpretation in the practice of other countries, such a thematic framework acknowledges that money laundering from criminal proceeds can be derived from tax crimes and the income generated therefrom. For instance, the **Italian Court of Cassation in Criminal Judgment No. 49427, December 23, 2009**, held that: "A tax crime related to the law of a foreign state in whose territory it is fully committed, may constitute the principal criminal offense necessary for the crime of money laundering of products related to it, which would then be carried out in Italian territory." (Italian Court of Cassation in Criminal Judgment No. 49427, December 23, 2009)

Additionally, the **UK case R v Allen (2001)** demonstrates that tax evasion is considered a principal criminal offense of money laundering. The Court ruled that a person who "benefits" from tax evasion gains the amount of tax

evaded, even though scholars have pointed out that this is not entirely direct. Given that tax evasion is a primary offense but generates illegal savings as opposed to conventional profit, and considering that mixed funds create liability, it remains unclear where the line should be drawn and whether such funds should be treated differently for tax evasion charges as compared to money laundering charges. These legal interpretations underscore the complexity of the relationship between **tax crimes** and **money laundering**, showing how tax evasion and the illegal financial gains it generates can be linked directly to the laundering of proceeds through various mechanisms. This understanding is important in aligning national legal frameworks with international standards to combat financial crime effectively. (Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

**Cass. pen., Sec. II, Decision No. 27848, June 24, 2019 (hearing of March 14, 2019)**. In this case, the **Court of Cassation** addressed the complex issue of whether money laundering could be constituted when the so-called linked crime is a **tax crime**. The court held that awareness of the illegal origin of the money or object of money laundering was not necessary. This decision emphasized that the crucial element in establishing the crime of money laundering is not limited to the awareness of the illicit origin of the proceeds but can be inferred from indirect elements, logically coordinated to conceal the "cleaning" of illegal tax savings obtained through tax crimes. The ruling also pointed out that the crime of money laundering, as well as self-laundering (i.e., laundering proceeds for one's own benefit), if carried out in the interest or for the benefit of a legal entity, constitutes a **precondition for administrative liability** of legal persons, pursuant to Article 25 of Legislative Decree No. 231/2001. (Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

**Cass. Pen., Sec. III, April 21, 2017, No. 38016**: "The operation in which Company Alfa, instead of directly selling some properties, transferred the aforementioned properties to Company Beta, created after a split, fully owned by Alfa and included in its fixed financial assets, whose shares were then sold to a third-party buyer [...] The operation of transferring a complex of real estate assets was considered to be simulated, carried out through the transfer of company shares, according to the scheme analyzed above, accompanied by the same taxpayer purchasing shares of another company, which was then liquidated after the sale of all its assets, with the aim of eliminating the capital gain obtained from the sale of the aforementioned company's properties/shares with a capital loss." (Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

**Spanish Supreme Court Decision on Tax Crimes and Money Laundering**. The **Spanish Supreme Court** has indicated that tax crimes can be regarded as **predicate offenses** for money laundering, despite the fact that many scholars do not agree with this judicial practice. In its **decision No. 974/2012**, dated **December 5, 2012**, the court affirmed that crimes like tax evasion could constitute the basis for money laundering, thus reinforcing the idea that illegal tax savings, when integrated into the financial system or used for illicit purposes, can be classified as proceeds of crime. (Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

**French Court of Cassation Decision – The Achach Case**. In the **France Cour de Cassation (Criminal Division)** decision of **September 11, 2019, Decision No. 1177** (Achach case), the Court addressed the issue of how tax evasion is treated in relation to the amount of fines imposed for money laundering. The **Court of Appeal** had initially imposed a fine of **€1 million** based on the total amount of hidden funds discovered by the French tax authorities. However, this approach was overturned by the **Court of Cassation**. The Court of Cassation confirmed that the funds resulting from tax fraud are essentially the savings that allowed the tax evader to avoid paying taxes. The Court ruled that the fine for money laundering related to tax evasion should be based only on the amount of taxes actually evaded, and not on the entire amount of hidden funds. This decision provides clarity on how fines should be calculated in cases of money laundering linked to tax evasion, specifically emphasizing the tax evasion amount as the relevant metric. This decision aligns with broader international standards, reinforcing that only the value of the taxes evaded should be considered when imposing penalties for laundering the proceeds of tax evasion, rather than the broader amount of illicit funds involved. (Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

These cases collectively highlight the intricate relationship between **tax crimes** and **money laundering**, showcasing different national legal perspectives on how illicit financial activities, especially involving tax evasion, should be handled in relation to the laundering of illegal proceeds. They also emphasize the importance of interpreting **money laundering** through a broad scope, including tax crimes, in line with international standards, such as those set by the **FATF**.

In a broader perspective, tax evasion and money laundering are interconnected financial crimes that can significantly impact the economy and society. (Bourton S. (2024), 1.3 p 17) Understanding their relationship requires an exploration of how tax evasion facilitates money laundering and how both activities undermine financial systems and governance within a country. As mentioned earlier, various studies have explored the link between tax evasion and

money laundering.

To summarize the relationship between tax evasion and money laundering, it primarily consists of:

**The Source of Illicit Funds:** Tax evasion often generates illicit funds that need to be laundered. For example, individuals who evade taxes and duties may hide their earnings in shell companies, which later requires laundering to obscure or avoid legal scrutiny. (Levi, M., & Reuter, P. (2006). 34(1), 324-325)

**Complex Financial Structures:** Both tax evasion and money laundering often involve complex financial structures and transactions. Tax evaders may use similar techniques to launder money, such as shell companies, trusts, or offshore companies, making it difficult for authorities to trace the origin of the funds. (Bourton S. (2024), p.1.3 p 17-19)

**Regulatory Gaps (Legal Loopholes):** Jurisdictions with weak regulatory frameworks for tax compliance may also have inadequate measures against money laundering. This creates an environment where both tax evasion and money laundering can thrive, as criminals exploit the lack of oversight.

**Impact on Economic Stability:** Both tax evasion and money laundering can destabilize economies. Tax evasion reduces tax revenues, which can lead to budget deficits and a decrease in public services. Money laundering can distort financial markets and lead to increased corruption, further undermining economic stability. (Bourton S. (2024) p. 20, p.60-82)

**International Cooperation:** The global nature of both crimes requires international cooperation. Many countries have implemented measures to combat both tax evasion and money laundering, such as the Common Reporting Standard (CRS) and recommendations from the Financial Action Task Force (FATF). ( *FATF Standards on Money Laundering, Countering the Financing of Terrorism, and Proliferation Financing* & Bourton S. ,(2024) p. 20, p.60-82)

### 2.1 *Are tax crimes considered a "primary" criminal offense within the meaning of Article 287 of the Penal Code, "Money laundering of the proceeds of crime or criminal activity"?*

Tax crimes are foreseen in Articles 180 and 181 of the Penal Code, respectively, "Concealment of income" and "Failure to pay taxes and duties." Both of these offenses are included in Section VI, "Criminal Offenses Related to Taxes and Duties." Regarding whether these criminal offenses can be considered "primary criminal offenses" within the meaning of Article 287/3 of the Penal Code, "Money laundering of the proceeds of crime or criminal activity," there have been several views in our jurisprudence. (Criminal Code of the Republic of Albania (1995), as amended)

Referring to the position held in decision no. 1, dated January 13, 2016, by the Penal College of the Supreme Court, it was reasoned that the criminal offenses of income concealment and failure to pay taxes cannot be considered as "primary criminal offenses" that generate criminal products. This is because these offenses do not bring about products, but only an unjust saving from a legal and fiscal perspective from a wealth that was produced through non-criminal means, such as corporate capital and the exercise of business freedom. (Decision No. 1, dated January 13, 2016, of the Penal College of the Supreme Court) Concerning the criminal offense of money laundering of the proceeds of crime, the Penal College evaluated that the base criminal offenses from which criminal products are generated are only those crimes that result in a visible and tangible enrichment that comes into the possession of the offender. (Decision No. 1, dated January 13, 2016, of the Penal College of the Supreme Court)

With the criminal offense of money laundering of the proceeds of crime or criminal activity, the legal provision foresees that the material object of laundering is an increase in wealth from income that comes from outside the legal wealth and generates an additional wealth flow, which is gained and laundered by the offender. The concealment of income and failure to pay taxes and duties, in and of themselves, are criminal offenses that do not imply a visible enrichment of ownership but, at most, an unjust saving that cannot be the object of the criminal offense of money laundering of the proceeds of crime, according to Article 287 of the Penal Code, for the author himself, as it does not fit the concept of "profit from wealth" or the concept of "taking possession of it" by the same subject. (Decision No. 1, dated January 13, 2016, of the Penal College of the Supreme Court)

Therefore, as cited above, for many years in our jurisprudence, there was no clear connection between tax crimes and money laundering. According to this position of the Penal College, income concealment and failure to pay taxes and duties are not considered a base criminal offense that generates criminal products but only an unjust saving from a legal and fiscal perspective, a saving produced through non-criminal means... ( Decision No. 1, dated January 13, 2016, of the Penal College of the Supreme Court) This is a position that certainly leaves much room for interpretation and debate, as the income that comes from failing to pay taxes or duties and income concealment or products, come from criminal activity (the behavior manifested through the concealment of income and failure to pay taxes and duties with the purpose of committing a criminal act in itself).

The benefit derived from tax evasion (concealment of income and failure to pay taxes and duties) is an ill-gotten income, as the taxpayer's or individual's behavior aims precisely at hiding income on which taxes and duties are calculated. Although the income may come from the exercise of a legal activity, the concealment of income on which taxes and duties should have been calculated is income that may exceed that which is earned from criminal activities such as organized crime, trafficking, etc. Therefore, in this context, tax crimes represent a criminal behavior.

On the other hand, even the criminal offense of money laundering involves the use of legal means to launder money and conceal its origin, but in itself, the behavior is criminal as it aims to hide the origin of the ill-gotten income by transferring it into legitimate financial systems.

Regarding this issue, referring to later judicial practice, in decision no. 00-2024-453 of the Penal College of the Supreme Court, (Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court) the relevant section argued that: there must always be a necessary causal link between the "primary" criminal offense and the laundering of its product (the "derivative" criminal offense). This means that if there is no objectively consummated primary criminal offense, one cannot speak of laundering its product. The product must stem from an act that is foreseen as a criminal offense, according to Article 287 of the Penal Code. Therefore, there must be a direct connection between the actions of the perpetrator and the potential consequences of laundering the product of the criminal offense. (Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

Therefore, the necessary existence of an exclusive causal link between the primary criminal offense, on the one hand, and the criminal offense of laundering this product, emphasizing that there must be an objective completion of the criminal offense of income concealment and failure to pay taxes in order to speak of laundering its product under Article 287 of the Penal Code. (Criminal Code of the Republic of Albania(1995), as amended)

Also, referring to the provisions of the two Conventions, the primary criminal offense from which criminal products or assets originate is independent of the criminal offense of laundering these criminal products. The subject who commits the primary criminal offense may also be the subject who commits the criminal offense of laundering the proceeds of the criminal offense, but this does not necessarily have to be the author of the primary criminal offense. (Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

Moreover, the Penal College of the Supreme Court, in the cited decision, points out that:

For the specific case, it is necessary to consider the definitions provided in Article 1(e) of the Council of Europe Convention "On laundering, detection, seizure, and confiscation of the proceeds of crime," adopted in Strasbourg, ratified by Law no. 8646, dated 20.07.2000, as well as in Article 1(e) of the Council of Europe Convention "On laundering, detection, seizure, and confiscation of the proceeds of crime and the financing of terrorism," ratified by Law no. 9646, dated 27.11.2006. It is explicitly stated that "primary criminal offense" will be considered any criminal offense from which products are generated and that can be the object of a criminal offense, according to Article 6 of the first Convention or Article 9 of the second Convention, both of which refer to the criminal offense of laundering the proceeds of crime. (European Convention "On the Laundering, Detection, Seizure, and Confiscation of the Proceeds of Crime" ratified by Law no. 8646, dated 20.07.2000, Article 6. The Council of Europe Convention "On the Laundering, Search, Seizure, and Confiscation of the Proceeds of Crime and the Financing of Terrorism" (Warsaw Convention), ratified by Law no. 9646, dated 27.11.2006, provides the definition of the criminal process of money laundering in Article 9.)

Referring again to these Conventions, the concept of "product of the criminal offense" means any economic advantage (wealth of any kind, physical or non-physical, movable or immovable) derived from criminal offenses. (The same)

Referring to Article 2(e) of the United Nations Convention against Corruption, defined as "income from crime," all assets that flow from or are obtained directly or indirectly through the commission of a criminal offense are considered income from crime. (United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, ratified by Law no. 8722, dated 26.12.2000, Article 2.)

According to Article 36 of the Penal Code, "any type of wealth, as well as documents or legal instruments that prove titles or other interests in wealth that flow from or are obtained directly or indirectly from the commission of a criminal offense," which, in relation to the notion of "product of the criminal offense," is similar to Article 1 of the Warsaw Convention, meaning that the product of a criminal offense refers to any economic advantage derived from a criminal offense, which may consist of wealth of any kind, as well as documents or legal acts that prove a title or interest in such wealth. (Criminal Code of the Republic of Albania(1995),as amended)

Also, referring to the criminal offense foreseen in Article 287 of the Penal Code, there are no sanctions in its penal provision limiting a category or certain criminal offenses that generate criminal products that are the object of the criminal offense of laundering the proceeds of crime and criminal activity. Thus, it does not exclude criminal offenses like income

concealment and failure to pay taxes. (Criminal Code of the Republic of Albania & Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

Furthermore, the Penal College emphasizes that, regarding Actus Reus and the criminal offenses that may serve as a source for money laundering products, our legislation does not provide a clear definition of the nature of the primary offense. Any illegal activity could constitute a primary criminal offense for money laundering, without specifying the weight or amount of the laundered product. Additionally, even the incorporation of the Council of Europe Conventions into our national law does not limit the national discretion in determining the nature of the criminal offenses that may serve as a source for laundering the products of criminal acts. (Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

The analysis of the decision emphasizes that, according to FATF Recommendation 3C, money laundering should encompass all serious crimes and extend to a wide range of primary offenses. Money laundering and tax crimes often occur in the same causal chain, as individuals involved in money laundering typically also evade tax obligations. However, money laundering is considered a distinct crime, where the proceeds originate from another criminal offense, referred to as the "predicate offense." (Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

The decision reasons that, despite the different theoretical and doctrinal views over the years on whether tax crimes in the field of taxes and duties are primary criminal offenses and whether they can precede the criminal offense of "Money Laundering of the proceeds of the criminal offense," jurisprudence and judicial practice have accepted the connection between the benefits of fiscal evasion and money laundering. ( Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

Furthermore, the Penal College of the Supreme Court, referring to international practice, emphasizes that tax crimes can serve as predicate offenses for money laundering. It asserts that, in order to determine whether acts such as "income concealment" and "tax evasion" can be considered sources for money laundering, the element of the act and the purpose of the financial transaction must be analyzed. If the proceeds from fiscal evasion are used to generate additional income through fictitious transactions, this is not a "saving," but a method of engaging in money laundering.( Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

In conclusion of this analysis, referring to the recent position held by the Criminal Chamber of the Supreme Court in 2024, we find an expansive interpretation, referring not only to the Council of Europe Convention "On the Laundering, Detection, Seizure, and Confiscation of the Proceeds from Crime," adopted in Strasbourg and ratified by Law No. 8646, dated July 20, 2000, Article 1(e) of the Council of Europe Convention "On the Laundering, Search, Seizure, and Confiscation of the Proceeds of Crime and the Financing of Terrorism," ratified by Law No. 9646, dated November 27, 2006, Article 2(e) of the United Nations Convention against Corruption, FATF Recommendation 3C, and a comparative interpretation of the practice of other countries, but also an interpretation of the connection between tax crimes and money laundering of the proceeds of crime within domestic legislation, specifically evaluating that:

Whether the criminal offenses of "Concealing Income" and "Failure to Pay Taxes and Duties," Articles 180/3 and 181 of the Criminal Code, can serve or not as predicate offenses for the crime of "Money Laundering" as foreseen by Article 287/3 of the Criminal Code requires referring to the analysis of the elements of this crime, specifically the action and the intent behind the financial act, transaction, or investment of the income generated by that act. If the income derived from failure to pay taxes is used in a transaction to generate further income by being fictively invested in the name of other persons, in shares, dividends, or salaries of individuals who do not exist in an employment relationship, and which are then reinvested back into the company, as assessed in the factual situations in the first and second-instance trials, then we are not dealing with "savings" in favor of the company's status, as argued by the Court of Appeal. Instead, this is one of the ways in which the laundering of proceeds from criminal activity can occur.(Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

Thus, despite the different theoretical and doctrinal views over the years on whether tax crimes are "predicate" offenses and whether they can precede the crime of "Money Laundering," jurisprudence and judicial practice have not only accepted the connection between the profits from tax evasion and money laundering but, referring to the latest decision of the Criminal Chamber in the specific case, the income from failure to pay taxes that are used in a transaction to generate further income by being fictively invested in the name of other individuals in shares, dividends, or salaries of persons who do not exist in an employment relationship and which are subsequently reinvested back into the company, then we are not dealing with "savings" in favor of the company's status, as argued by the Court of Appeal. Instead, this is one of the forms in which the laundering of proceeds from criminal activity can occur. (Decision No. 00-2024- 453 Decision (68) of the Penal College of the Supreme Court)

Certainly, the existence of a connection between tax crimes as predicate offenses and the crime of money laundering will be evaluated on a case-by-case basis, based on a detailed analysis of the fulfillment of all the elements of the crime, both objective and subjective elements, as well as the necessary existence of a causal link between these two offenses.

### 3. The Change in Tax Legislation in Albania in Line with EU Directives as an Indicator in Reducing Tax Evasion

Tax laws in Albania have undergone significant changes to align with the directives of the European Union, becoming an integral part of the fight against money laundering. These changes include the enhancement of financial transparency, strengthening measures to combat tax evasion and money laundering, and the establishment of mechanisms for international cooperation. Alignment with EU directives has necessitated improvements in legislation to identify and track suspicious financial activities, including obligations for reporting suspicious transactions and increasing sanctions against entities involved in money laundering activities.

A key change was the fiscalization of tax invoices in Albania, reflecting the country's commitment to harmonizing its legislation with EU standards. This process was essential for improving tax compliance, increasing administrative efficiency, and creating a more transparent business environment. The fiscalization of invoices is part of efforts to modernize the tax administration within the framework of the digital economy. (Tax Administration of Albania (DPT), Fiscalization)

Thus, **Law No. 87/2019, dated December 18, 2019, "On Invoices and the Monitoring System of Circulation,"** published in the Official Gazette on January 20, 2020, establishes the rules and obligations for taxpayers and software developers regarding the issuance and fiscalization of invoices. This law is in compliance with EU directives and aims to increase tax compliance, improve tax administration, reduce informality, and combat tax evasion by enhancing transparency and enabling real-time transaction verification. (**Law No. 87/2019**, dated December 18, 2019, "On Invoices and the Monitoring System of Circulation," Fiscalization). The law is partially aligned with: Directive 2014/55/EU of the European Parliament and Council, dated April 16, 2014, "On electronic invoicing in public procurement," Council Directive 2006/112/EC, dated November 28, 2006, "On the common system of value-added tax," as amended.

According to statistical data monitoring by the General Directorate of Taxes, in 2022 alone, there were 71,117 taxpayers, or 58.5% of the total active taxpayers, who had fully fiscalized, and over 188.6 million fiscalized invoices were issued. (Tax Administration of Albania (DPT), Fiscalization)

In January 2020, **Law No. 4/2020, "On the Automatic Exchange of Financial Account Information"** (CRS), was adopted, aiming to ensure the implementation of the Convention on Mutual Administrative Assistance in Tax Matters, ratified by Law No. 146/2013, and the multilateral agreement of the Competent Authority for the automatic exchange of financial account information. The law focuses on combating tax fraud and evasion, as well as improving both national and international tax compliance. (Law No. 4/2020 )

This law is partially aligned with Council Directive 2011/16/EU, dated February 15, 2011, "On administrative cooperation in the field of taxation and repealing Directive 77/799/EEC," as amended. (Law No. 4/2020 )

To address the issue of offshore tax evasion and the accumulation of funds abroad, tax authorities, in cooperation with the G20 countries and the OECD, established a Common Reporting Standard (CRS) for the automatic exchange of information (AEOI). (Law No. 4/2020 ) Under this framework, financial institutions collect and report information to tax authorities regarding account holders who are residents of other countries, including account balances and capital gains (such as interest and dividends). This information is automatically transmitted every year, including for offshore accounts, helping to prevent tax evasion and fraud. Globalization has facilitated the hiding of assets in offshore jurisdictions, while international cooperation through standards like CRS and BEPS seeks to combat cross-border tax evasion. (Law No. 4/2020).

Due to the interconnection between tax evasion and money laundering, the implementation of this law impacts both the prevention of tax evasion, the handling of tax fraud, and the prevention of money laundering.

Certain researchers critically assess the effectiveness of each form of information exchange in combating offshore tax evasion, both in theory and in practice, providing a detailed evaluation of costs and benefits. They argue that such agreements have the potential to influence the reduction or minimization of offshore tax evasion, but only by addressing the existing weaknesses in each case. (Bourton S. (2024) p.60-82)

The adoption of **Law No. 29/2023 on Income Tax**, as amended, aligns partially with: Council Directive (EU) 2016/1164, dated July 12, 2016, "On the establishment of rules against tax avoidance practices that directly affect the functioning of the internal market," as amended, Council Directive 2009/133/EC, dated October 19, 2009, "On the

common tax system applicable to mergers, divisions, partial divisions, asset transfers, and share exchanges involving companies from different member states, and on the transfer of the registered office of a SE or SCE between member states," as amended. ( Law No. 29/2023 on Income Tax, as amended.)

This law came as a response to the need for reforming Law 8483/1998 "On Income Tax," dated January 1, 1998, which, due to numerous amendments, had created distortions leading to inequality in tax treatment, gaps in the treatment of income from inheritances and donations, unclear provisions regarding depreciation, and ambiguities in the fiscal treatment of bad debt, among other issues. It is certainly a significant step toward improving the fiscal system and combating tax evasion. ( Law No. 29/2023 on Income Tax, as amended.)

Currently, this law is in its early stages, with the implementation of new Withholding Tax and DIVA declarations expected by the end of 2024 or the beginning of 2025, including the pre-filing of the DIVA declaration with data from the Withholding Tax declaration. One notable innovation in this law is the inclusion of definitions in Article 3, Definitions, points 24 and 25, which provide the relevant definitions. ( Law No. 29/2023 on Income Tax, as amended.)

A **"virtual asset"** is a digital representation of value that can be deposited, traded, or transferred in digital form, and can be used for payment or investment purposes, or as a medium of exchange, including but not limited to cryptocurrencies. This definition does not encompass digital representations of currencies officially issued or guaranteed by central banks or a public authority, nor does it include securities or other financial instruments as defined by current legislation. ( Law No. 29/2023 on Income Tax, as amended.)

**"Mining or earning virtual assets"** refers to the activity of utilizing the computational power of system users to solve cryptographic algorithms with the aim of confirming transactions and earning virtual assets in return. It also includes the activity of processing and confirming transactions through the investment of a specific virtual asset by users of participating computer nodes in this process. ( Law No. 29/2023 on Income Tax, as amended.)

I will mention only these points, considering that virtual assets and the services associated with them offer significant opportunities for innovation and efficiency in finance, but also create possibilities for illegal activities, such as money laundering and the financing of terrorism. The ability to conduct anonymous international transactions allows for the preservation of assets abroad and the concealment of the origin or destination of funds, making it more difficult for competent authorities to identify suspicious activities and investigate crimes. (Typologies of Money Laundering through Virtual Assets).

The inclusion in Law No. 29/2023 on Income Tax, as amended, stipulates that income from the mining or earning of virtual assets by a resident in the Republic of Albania, as well as income from transactions involving virtual assets by a resident of the Republic of Albania, shall be subject to declaration. This provision not only paves the way for the collection of withholding tax but also provides a means of control and detection in cases of tax crimes or money laundering. . ( Law No. 29/2023 on Income Tax, as amended)

Certainly, the law requires further guidelines for its proper implementation and to prevent abuse within potential legal loopholes. The guidelines and implementation methods should be as swift as possible to remain coherent and proactive in addressing the rapid technological development and new methods created for committing tax crimes and laundering the proceeds of criminal offenses.

The rapid economic development and technological advancement have necessitated the adaptation of the tax system and relevant legislation to global standards. Despite improvements in legislation and the modernization of the tax administration through digital tools and data analysis, instances of fiscal evasion still persist. Participants in these activities continue to find ways to enhance methods of evasion and money laundering.

An example of this is the discovery of an evasion scheme by business entity X, which issued counterfeit invoices to evade tax obligations. This case involves suspicions of concealing €3.7 million by using a pirated and unlicensed computer system to issue fake invoices.(Tax Administration of Albania (DPT)Another case involves the identification of a group of individuals who, between 2021 and 2022, laundered €11 million in Albania and transferred them to Canada. Investigations, referred by the Tax Investigation Directorate to the Prosecutor's Office in Tirana, revealed that certain individuals had created a criminal scheme through banking transactions, using shell companies in tax havens such as Cyprus, Gibraltar, and Malta. The money was transferred to Albania via fictitious companies and then sent to Canada, involving criminal acts of "Concealment of Income" and "Money Laundering." (Tax Administration of Albania (DPT)

A key issue remains **online access for the blocking of bank accounts, the seizure, or confiscation of real estate assets** in the implementation of restrictive measures developed by the Directorate for the Collection of Unpaid Tax Liabilities in the Central Region. To address this, it is essential to establish and operate a centralized register for bank accounts and a register for beneficial ownership. The completion of the property digitalization process is also necessary. These initiatives not only contribute to the overall formalization of the economy and improve access to data by tax



authorities, but also enhance the ability for more timely and accurate verifications by the Financial Intelligence Unit (FIU), providing fast and reliable data on bank accounts, beneficial ownership, and real estate ownership. (National Strategy for Money Laundering 2024-2030 )

A significant issue remains **the informality of businesses**, which creates a precedent for the lack of criminal prosecution due to the absence of prior administrative measures. According to Article 181 of the Penal Code, "Failure to Pay Taxes and Duties" stipulates that failure to pay taxes and duties within the prescribed deadline, despite the possibility of paying them, by a person who has previously been subject to administrative measures for this purpose, is punishable by a fine or imprisonment for up to three years. (Criminal Code of the Republic of Albania (1995) as amended). The failure to register these businesses results in the absence of an administrative measure from the tax administration, and consequently, there is no criminal prosecution.

**Economic informality**, despite measures to reduce the **use of physical cash**, remains a common practice that complicates the traceability of the movement and use of funds during investigations. (National Strategy for Money Laundering 2024-2030 )

**The lack of effective control or continuous monitoring over NGOs** (non-governmental organizations) as one of the main sources for money laundering remains a significant issue. (National Strategy for Money Laundering 2024-2030 )

The main objective remains the alignment of Albania's tax legislation with EU Directives and OECD standards, particularly in the field of indirect taxes such as VAT and excise duties. For Albania, the harmonization of tax legislation with the EU *acquis* is required, under the guidance of the Ministry of Finance. This includes enhancing electronic interaction and information exchange with the tax administrations of EU countries, as well as linking IT systems. Additionally, the implementation of BEPS standards continues, along with the expansion of published technical guidelines. (Tax Administration of Albania DPT).

As discussed above, the legal changes in the tax legislation, partially aligning them with the EU Directives, are a significant aid as any form of information exchange enhances the fight against offshore tax evasion. Viewed from the perspective of money laundering, the General Directorate of Taxation (DPT) is one of the reporting bodies within the Financial Intelligence Unit (FIU). According to the 2023 annual report of the FIU, 1,728 cases were reported by the reporting entities (Annual Reports 2023, FIU). The FIU analyzes the information, cross-references the data, and in cases of suspected money laundering, the reports are forwarded to the competent authorities such as the Prosecutor's Offices of the General Jurisdiction, SPAK, and the General Directorate of the Anti-Money Laundering. In 2023, the General Directorate of Taxation reported 18 cases concluded with suspicions of tax evasion, concealment of income, or other violations of the tax legislation (Annual Reports 2023, FIU).

In July 2023, FATF positively assessed the rapid measures taken by Albania to cooperate with FATF and MONEYVAL (Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism) in improving the system for the prevention of money laundering and the financing of terrorism (AML/CFT). This included the adoption of an action plan with 19 points, to be implemented within three years. The implementation of a series of legal initiatives and reforms significantly contributed to the increase in the effectiveness of the AML/CFT system, leading to Albania's removal from the FATF "grey list" (National Strategy for Anti-Money Laundering 2024-2030).

In conclusion, this paper aims to:

- Address a very important and current issue in Albanian law.
- Present a detailed examination of the relationship between tax evasion and money laundering in the global context, supported by studies and cases from international legal practice.
- Establish the link between tax crimes and money laundering, based on recent judicial practices in the country, and beyond.
- Analyze the changes in tax legislation, aligning them with the EU Directives and OECD standards, from the perspective of international and inter-institutional cooperation in the fight against money laundering in Albania.

#### 4. Conclusions on the Challenges of Legislation Related to Tax Crimes and Money Laundering

As a conclusion, one of the biggest challenges, as mentioned earlier, is undoubtedly the effective legal coherence with technological developments, which creates the need for efficient control over the implementation of the law, as well as a broader alignment of tax legislation with the EU directives and OECD standards.

Based on the above regarding the effectiveness of legislation in tax crime and money laundering, I assess that the main challenges are:

- The completion of the relevant guidelines for the implementation of new tax laws, addressing legal gaps encountered during implementation.
- Adapting or adopting best international practices for detecting financial crimes in technological times.
- Conducting intensive training and cooperation with external experts from specific fields with an impact on the work of the Tax Administration.
- Collecting and processing information in the proper manner, with the use of specialized knowledge in this field, as well as having efficient expertise.
- Detailed and qualitative analysis related to tax crime and money laundering, based on the most effective models, which would increase the level of prevention of financial crime.
- Inter-institutional cooperation, fulfillment of reporting obligations, and increased transparency.
- Implementation of proper controls and the establishment of sanctions. Alignment of sanctions with EU requirements to ensure the effectiveness of the fight against money laundering and tax evasion.

Following this mission, the Tax and Customs Administration Training Center (QTATD) has organized training sessions with field experts to discuss criminal offenses in the field of taxation, in collaboration with prosecutors from the Special Prosecution Office (SPAK). Within the framework of training with field professionals, it would be necessary to undertake more intensive training for a broader understanding of aspects related to financial crime in modern times, based on technological development trends.

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