

Kraków, 20 May 2023 r.

Mgr Joanna Troszczyńska
Katedra Prawa Karnego
Wydział Prawa i Administracji
Uniwersytetu Jagiellońskiego

Abstract of the doctoral dissertation

The offence of money laundering under Polish and French criminal law.

A comparative analysis.

In recent years anti-money laundering (AML) systems in Poland and France have been undergoing profound changes along with the process of harmonization of national legislation with legal norms of the EU legal order. Likewise, the perception of the offence of money laundering has been significantly broadened. The subject of the doctoral dissertation lies within the issue of offence of money laundering under the Polish and French criminal legal systems. The comparative analysis aims at examining the current legislative provisions on money laundering in the light of domestic legal orders, taking the social, economic and historical context into consideration. The need to criminalize certain types of conduct, which boundaries are hard to delineate, reflects on difficulty of identification of affected legal good. So-called zero tolerance towards the most serious offences, including money laundering, negatively impacts the traditional balance between criminal and administrative law. Recent debate proves that the anti-money laundering combat requires further developments and must be constantly adapted to current needs.

The comparative study shall facilitate searching for the way of handling the problem related to low efficiency in money laundering prosecution. It also allows to take a closer look how the legal problems, concerning the same issues are solved by the doctrine and judicature in both countries (for example: the link between money laundering and predicate offence, the question if the predicate criminality can be proved via objective facts and circumstances). The boundaries of criminalization of money laundering are broad. Paradoxically, on one hand the constitutive elements of money laundering are defined very wide, and on the other hand – the commission of money laundering is still quite difficult to be proved.

In the thesis, it was assumed that the construction of art. 299 § 1 of Polish Criminal Code is dysfunctional and affects the effectiveness of the fight against money laundering. The legal provisions are ambiguous and unclear, which hinders the interpretation or correct

application thereof. The comparative analysis creates the favorable conditions to set up the common standards.

The dissertation consists of four chapters. The first chapter aims at introducing the reader to the common notions, which are inherent to money laundering phenomenon. Furthermore, the development of international and European regulations related to counteracting money laundering will be reviewed. The second chapter presents the Polish and French models of AML system and strives to define the scale of money laundering based on statistical data. The chapter also covers the AML legal and institutional framework in Poland and France in the light of socio-historical and economic perspective. The third chapter is dedicated to the dogmatic analysis of the offence of money laundering, defined in art. 299 of the Polish Criminal Code and art. 324 of the French Criminal Code. It frames the common ground upon which the comparative analysis can be initiated. The dogmatic analysis of the offence under art. 299 § 1 Polish Criminal Code is performed based on the constitutive elements of prohibited act (*ustawowe znamiona czynu zabronionego*), whereas the offence defined in art. 324-1 of the French Criminal Code is structured as follows: preliminary condition (*condition préalable*), material element (*élément matériel*) and mental element (*élément moral*). Furthermore, the analysis was enriched with the case study in order to reflect better the mechanism of money laundering prosecution in France.

The forth chapter is focused on comparative analysis of money laundering. It emphasizes - in the light of European regulations - the similarities and differences between the legal norms, which define money laundering in Polish and French Criminal Codes. Ultimately, the dissertation provides a series of arguments in the support of *de lege ferenda* propositions, leading to the comprehensive redefinition of the offence of money laundering defined in art. 299 of the Polish Criminal Code.

A handwritten signature in black ink, appearing to be 'Krzysztof' followed by a stylized surname.