

# The Crime of Money Laundering in Egypt: Independence, International Standards, and Judicial Practices



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The global community has increasingly focused on combating money laundering due to its inherent dangers and its link to transnational organized crime. This focus has led to the development of international frameworks outlining measures that nations must adopt to prevent and combat money laundering offenses. Egypt, as one of the first Arab and African countries to legislate against money laundering, enacted Law No. 80 of 2002, which has since undergone numerous amendments, the most recent being under Law No. 154 of 2022. These amendments aim to align Egypt's legal framework with international standards. However, questions have arisen regarding the independence of money laundering as a distinct offense in Egypt, particularly in light of the Financial Action Task Force (FATF) recommendations.



## Defining Money Laundering

Money laundering refers to the process of injecting illegally acquired funds into a country's economy to obscure their criminal origins. According to some studies, the term "money laundering" originated in the 1920s when members of the mafia purchased coin-operated washing machines and combined their legitimate earnings from laundry services with proceeds from drug trafficking. This strategy allowed them to disguise illicit gains, as their profits from narcotics, often in small denominations, required a legitimate channel to integrate into the banking system.

## The International Framework for Money Laundering Criminalization

Due to its severe implications, particularly its links to cross-border organized crimes such as terrorism, drug trafficking, corruption, human smuggling, and human trafficking, money laundering became a significant international concern in the late 1980s.

### Key International Agreements

1. The 1988 Vienna Convention: The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances was the first international treaty to criminalize money laundering.
2. The 1999 International Convention for the Suppression of the Financing of Terrorism (New York): Focused on targeting financial channels used for terrorism.
3. The 2000 Palermo Convention: The United Nations Convention Against Transnational Organized Crime expanded the criminalization of money laundering to include proceeds from all serious crimes.
4. The 2003 United Nations Convention Against Corruption: Urged member states to adopt preventative measures (Article 14) and to criminalize all forms of money laundering (Article 23).
5. The Role of FATF In 1989, the Organization for Economic Cooperation and Development (OECD) summit established the Financial Action Task Force (FATF), an independent international organization. The FATF's primary goal is to develop standards and promote the effective implementation of legal, regulatory, and operational measures to combat money laundering, terrorist financing, and other threats to the integrity of the international financial system.

The FATF monitors member states' progress in implementing anti-money laundering measures, requiring them to undergo mutual evaluations to assess compliance with its recommendations. It also works with international partners to identify weaknesses at the national level, aiming to protect the global financial system from misuse.

### The Forty Recommendations

Since its inception, the FATF has issued 40 recommendations, which have been updated periodically. These recommendations serve as the foundation for most national anti-money laundering laws. Initially non-binding, they gained legal significance with the adoption of UN Security Council Resolution 1617 (2005), which called on UN member states to implement these recommendations.

FATF Evaluations and Classification of Countries

Member states of the Financial Action Task Force (FATF) are required to undergo mutual evaluations to assess their compliance with the organization's recommendations. Based on these evaluations, the FATF categorizes countries into the following lists:

1. **Black List** This list includes countries for which the FATF calls on its members and other nations to apply countermeasures to protect the international financial system from significant and ongoing risks of money laundering and terrorism financing. Countries are placed on the black list if they exhibit substantial and severe deficiencies in their anti-money laundering (AML) and counter-terrorism financing (CTF) frameworks. Being blacklisted carries serious consequences, including financial sanctions, restrictions on international financial transactions, and difficulty accessing global markets. Currently, North Korea and Iran are on this list.

2. **Grey List** This list includes countries for which the FATF urges its members and other nations to apply enhanced due diligence measures proportionate to the risks arising from these jurisdictions. Grey-listed countries have deficiencies in their AML/CTF frameworks.



**Due to the severity of money laundering crimes and their connection to organized crime such as terrorism, drug trafficking, corruption, and human trafficking, the international community has paid increasing attention to them since the late 1980s. The first international treaty addressing the criminalization of money laundering was the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.**

Inclusion on this list subjects countries to heightened scrutiny and additional reviews and evaluations.

The Principle of Independence in Money Laundering Offenses

The FATF's Recommendation 3 establishes the principle of the independence of money laundering as a standalone offense, distinct from the predicate crime. The recommendation specifies that proving that assets are the proceeds of a crime does not require a conviction for the predicate offense.

## The Legal Framework for Money Laundering in Egypt

The Egyptian Anti-Money Laundering Law (Law No. 80 of 2002), as amended by Law No. 154 of 2022, includes the following provisions:

### Key Provisions

- Article 2: Defines the perpetrator of a money laundering offense as anyone who knowingly handles funds or assets derived from a predicate crime and intentionally does any of the following:
  - Transfers or moves proceeds with the intent to conceal or obscure their nature, origin, location, ownership, or rights associated with them.
  - Acquires, possesses, uses, manages, safeguards, exchanges, deposits, guarantees, invests, alters the value of, or otherwise obscures the nature or movement of the proceeds.
- Article 14: Imposes a penalty of imprisonment for up to seven years and a fine equal to double the value of the funds or assets involved for anyone convicted of



committing or attempting to commit money laundering.

○ This article excludes money laundering offenses from the application of Article 32, Paragraph 2 of the Egyptian Penal Code.

○ Article 32 of the Penal Code stipulates that when a single act constitutes multiple crimes, only the crime with the severest penalty is considered. In cases where multiple crimes are committed for a single purpose and are inseparable, they are treated as a single crime, with the penalty for the most severe offense applied.

Article 2 bis of Prime Ministerial Decree No. 3331 of 2023 The amendment to certain provisions of the executive regulations of the Anti-Money Laundering Law states that:

“Money laundering is considered an independent offense, separate from the predicate crime. It is not required that an individual be convicted of the predicate offense beforehand for funds or assets to be deemed criminal proceeds.”

This decree, issued by the Prime Minister, was enacted pursuant to the legislative authority derived from Article 170 of the 2014 Constitution and Article 2 of the issuance provisions of the Anti-Money Laundering Law.

Based on the above, under Egyptian law, money laundering is treated as an independent offense, distinct from the predicate or source crime. A conviction or initiation of criminal proceedings for the predicate offense is not required for a judgment to be made in a money laundering case.

#### Judicial Applications of the Principle of Money Laundering Independence

A legal debate has emerged regarding the recognition of the principle of money laundering as an independent offense in the Egyptian judicial system. This debate holds significant implications for Egypt's compliance with international standards for combating money laundering. It also affects the timeline for rulings in money laundering cases, often delaying judgments until a final verdict is issued in the predicate offense. Additionally, it complicates the Public Prosecution's efforts to seize and manage criminal proceeds, as seizure orders often remain pending until a verdict is issued in the money laundering case.

Historically, several rulings by the Egyptian Court of Cassation —the highest judicial authority in Egypt, tasked with ensuring the uniform application of the law— have rejected the principle of independence. The most recent ruling,

dated June 5, 2024, in appeal No. 2665 of Judicial Year 93, affirmed this position, stating: “If criminal proceedings have been initiated for the predicate offense, the court hearing the money laundering case must wait until a final judgment is issued in the predicate offense. Relying on the mere sufficiency of evidence to establish the predicate crime based on its legal model is an imprecise criterion, inconsistent with the principle of procedural legality and the stability of legal positions, leading to unacceptable and contradictory outcomes.”

Several judicial rulings by the Court of Cassation and the Economic Courts affirm the principle of the independence of money laundering as a distinct offense. One such example is detailed below:



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On November 11, 2024, the Court of Cassation issued a judgment in Appeal No. 5490 of Judicial Year 94, in which a defendant appealed a ruling by the Cairo Economic Court. The lower court had convicted the defendant of money laundering, sentencing him to three years of imprisonment and a fine equal to double the laundered amount. The charges stemmed from laundering proceeds obtained through criminal activities, including embezzlement of public funds, forgery of official

documents, and their subsequent use. The defendant acquired, possessed, used, and concealed funds from the predicate crime. He partially utilized these funds to purchase gold jewelry, while hiding the remaining amount in his residence to obscure their origin, despite being aware of their illicit nature.

The defendant argued that the actions cited in the conviction did not constitute money laundering, pointing to his repayment of the embezzled funds as documented in the Public Prosecution's investigation of the predicate offense. However, the Court of Cassation rejected the appeal, stating:

- Repayment of Funds Does Not Negate the Crime: The court ruled that the repayment of funds associated with money laundering, even if verified by investigations into the predicate offense, does not invalidate the existence of the money laundering crime or exempt the defendant from criminal liability.
- Independence of Money Laundering and Predicate Crimes: The court emphasized that the Anti-Money Laundering Law does not provide for the termination of criminal proceedings in money laundering cases due to reconciliation or settlement in the predicate offense. The court clarified that money laundering and embezzlement of public funds are distinct crimes with differing natures and elements.
- No Requirement for Predicate Offense Prosecution: The court affirmed that initiating criminal proceedings

for the predicate offense or securing a conviction is not a prerequisite for prosecuting money laundering, provided that the trial court is satisfied with evidence demonstrating that the funds originated from a crime and that the defendant was aware of this fact.

- Judicial Discretion in Concurrent Proceedings: The court reiterated that the judiciary is not obligated to delay proceedings in a money laundering case pending a decision in the predicate offense. Article 302 of the Criminal Procedure Code grants judges full discretion to evaluate evidence presented during trial without being bound by specific methods of proof, unless explicitly required or prohibited by law.
- Broad Authority of Criminal Courts: According to Article 221 of the Criminal Procedure Code, criminal courts are authorized to rule on all matters essential to resolving a criminal case unless otherwise stipulated by law. This grants judges broad authority to uncover the truth, ensuring that no innocent person is punished and no guilty party escapes justice. The court emphasized that judges can address any related facts that may constitute separate offenses and provide a judgment on them within the context of the case under review.

On June 6, 2024, the Court of Cassation ruled in Appeal No. 11314 of Judicial Year 93, rejecting an appeal against a ruling by the Cairo Economic Court. The defendant had been convicted of money laundering, sentenced to three years in prison, and fined double the laundered amount. The case involved the embezzlement of victims' funds through fraud, as documented in cases No. 20860/2008, No. 20883/2008, and No. 20479/2008 in the Azbakeya Court.

The Cairo Economic Court had found the defendant guilty of laundering the embezzled funds by engaging in various money laundering activities. The defendant's appeal argued that the statute of limitations had lapsed on the original (predicate) offense, but the Court of Cassation rejected this argument, stating:

“Egyptian law adopts the principle of the independence of money laundering offenses in accordance with relevant global standards. However, given the varying judicial interpretations of this principle, it is anticipated that the Principles Unification Chamber of the Court of Cassation will resolve the issue and establish a unified legal precedent.”

The law does not require the court hearing the money laundering case to wait for a final ruling on the predicate offense. The court has the authority to assess the illegality of the funds independently. The appearance of the perpetrator of the predicate offense or the initiation of criminal proceedings against them is not necessary for convicting someone of money laundering if it is proven that the funds were acquired unlawfully, and the accused was aware of this.

The court had correctly inferred from the evidence

that the funds were the proceeds of fraud and that the defendant had knowingly laundered them.

On February 3, 2022, the Court of Cassation issued a judgment in Appeal No. 24557 of Judicial Year 88, rejecting an appeal by a defendant convicted of money laundering. The defendant had been sentenced to three years in prison and fined double the amount of the laundered funds. She had obtained large sums of money in US dollars through forgery of private documents (bank checks) and subsequently engaged in various money laundering activities.

The court ruled:

There is no specific method required to prove money laundering offenses; the general methods of evidence suffices.

The court only needs to be convinced by the evidence or indications presented.

The ruling clearly demonstrated the material and mental elements of the money laundering offense.

It is not necessary for the court to delay proceedings in a money laundering case pending a final ruling on the predicate offense.



**Egypt was among the first Arab and African countries to criminalize money laundering under Anti-Money Laundering Law No. 80 of 2002, which has undergone numerous amendments to align with international developments.**

On August 23, 2022, the Assiut Economic Court ruled in Case No. 1/2022 (Economic Felonies, Assiut) against a defendant accused of money laundering. The defendant had defrauded individuals, received funds for investment purposes, and

deposited the proceeds in his bank account. He later withdrew these funds and used them to purchase land and equipment to obscure their illegal origins. Despite being acquitted of the predicate offense of fraud by the Sohag Misdemeanor Appeals Court, the Assiut Economic Court convicted the defendant of money laundering, sentencing him to three years in prison and a fine. The court stated:

Money laundering is a standalone offense, independent of the existence or non-existence of the predicate offense.

For money laundering to be established, it is sufficient for the legal framework of the predicate crime, as outlined in Article 2 of the Anti-Money Laundering Law, to be met.

A conviction or acquittal in the predicate offense does not impact the validity of a money laundering charge. The Egyptian legislator has not specified a method for proving the predicate offense in money laundering cases, allowing money laundering charges to stand regardless of the outcome of the predicate offense.

**In conclusion,** Egyptian law has adopted the principle of the independence of money laundering as a distinct offense, aligning with relevant international standards. However, given the varying judicial applications regarding the independence of money laundering offenses, it is anticipated that the Principles Unification Chamber of the Court of Cassation will address this matter to establish a unified legal precedent.