Anti-Corruption Helpdesk Answer

Balancing professional confidentiality and anti-money laundering obligations in the legal profession

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Mounting evidence of legal professionals facilitating corruption by providing services to, wittingly or unwittingly, conceal illicit proceeds and launder money has led countries to impose Anti-Money Laundering (AML) obligations, including the duty to report suspicious transactions. However, compliance with these obligations remains relatively low within the legal profession. Professional legal confidentiality is often cited as a reason. Nevertheless, evolving legislation and jurisprudence increasingly affirm that professional confidentiality is not absolute, particularly when lawyers engage in high-risk activities such as buying and selling real estate, setting up companies, or managing assets, money, or securities. This Helpdesk Answer explores the balance between legal professional confidentiality and AML obligations, focusing on four civil law countries in Europe: France, Germany, the Netherlands, and Sweden.

Caveat: This Helpdesk Answer examines a limited selection of European legislation and jurisprudence on the subject. It does not constitute a legal assessment of the scope of legal professional confidentiality, nor can its conclusions be generalized across jurisdictions. The interpretation of AML obligations in relation to legal professional confidentiality ultimately depends on the judicial authorities in each national jurisdiction and is an evolving topic.

Query

How can lawyers balance legal privilege and their anti-money laundering obligations? What considerations and evidence are relevant?

Main points

- Legal professionals often play a major role in enabling corruption and money-laundering through their ability to disguise the origins of dirty money.
- Nevertheless, compliance with the requirements in anti-money laundering legislation to report suspicious activity has been historically very low in the legal profession, as flagged by the Financial Action Task Force (FATF) among other watchdogs.
- Professional confidentiality or legal professional privilege is often cited as a reason by lawyers in many jurisdictions as to why they cannot or will not report. Obligations of professional confidentiality are an important feature of the legal profession and essential to uphold the right to a fair trial and the rule of law.
- FATF guidance and legislation in many jurisdictions, such as the EU, have tried to balance these competing obligations by defining which circumstances would require lawyers to report their clients without breaching their confidentiality.
- These circumstances mainly concern 'economic' activities of lawyers, while protecting confidentiality for legal advice and legal representation.
- While AML requirements have been enacted in many jurisdictions and upheld by the courts as lawful, reasonable and proportionate, compliance remains an issue due to a lack of enforcement and resistance from many legal professionals.

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Introduction

Legal Professionals as Enablers

The legal profession has come under increased scrutiny in recent years for its role in facilitating money-laundering, tax evasion and other financial crimes. Along with accountants, real estate agents and other businesses, lawyers have been classified by the Financial Action Task Force as 'Designated Non-Financial Businesses and Professions' (DNFBPs) who can be exposed to a higher risk of assisting – either knowingly or unknowingly - those wishing to launder the proceeds of crime. The reason for inclusion of lawyers in this designation is partly due to the evolution of international corruption. Large-scale, cross-border corruption requires complex transactions and corporate structures that hide the true owners behind assets or transactions. This, in turn, requires the assistance of lawyers or other professions who can advise how to create such structures, as well as to administer them and the related financial transactions. This reflects the changing nature of the legal profession, which now offers a vast range of services[1] ranging from the administration of estates and trusts, advisory services in relation to tax and real estate transactions, as well as more 'traditional' activities of providing clients with legal advice and representation before the courts. It is the former set of activities that have become the focus of regulators and law enforcement authorities in terms of identifying anti-money laundering obligations for lawyers.

The evidence for the role that lawyers and notaries can play in enabling financial crime is more than anecdotal. The 2016 'Panama Papers' investigation by the International Consortium of Investigative Journalists (ICIJ) revealed that 1,339 lawyers, financial advisers and other intermediaries in Switzerland alone had set up more than 37,000 offshore companies over a 40-year period – over a sixth of all the organisations identified by the ICIJ (Duparc & Bachmann 2024). In Transparency International's 2023 report *Loophole Masters* – an analysis of 78 cases in which non-financial intermediaries had

[1] For a comprehensive, if non-exhaustive, list of such services, refer to FATF's Guidance for a Risk-Based Approach for Legal Professionals (2019).

engaged in services with a high risk of corruption or money-laundering - almost half of the professionals identified were lawyers (42 out of 87), by far the largest category of service-providers (Freigang & Martini, 2023). The cases further showed that enablers like lawyers are regularly based in secrecy hubs, often provide services for foreign clients (88 per cent of the cases) and surprisingly offer services in third countries leading to regulatory ambiguity (Freigang & Martini, 2023).

As a consequence of these kinds of findings, many jurisdictions the have enshrined in law certain obligations for legal professionals to prevent suspected money-laundering offences. For instance, in the European Union, AML obligations were extended beyond financial institutions to DNFBPs, including lawyers, with the adoption of the Second AML Directive in 2001. This directive marked the first fully documented and legally binding AML regulatory framework for lawyers (Nougayrède 2019, p. 326). In the UK, the Proceeds of Crime Act was amended in 2003 to include all professional legal advisers in the "regulated sector," covering lawyers engaged in designated transactional or financial activities (Nougayrède 2019, p. 344). More recently, Australia passed the AML/CTF Amendment Bill 2024, which will impose AML obligations on lawyers starting in July 2026 (AUSTRAC 2025).

Other jurisdictions, while recognising the risks of lawyers enabling money laundering and terrorist financing, do not impose obligations beyond self-regulation by the legal profession. In Canada, although the legal profession has adopted self-imposed AML and counter-terrorist financing obligations, it remains outside the scope of the country's Anti-Money Laundering and Anti-Terrorist Financing Regime and is not subject to direct supervision by FINTRAC (FINTRAC 2024). Similarly, in the United States, apart from the American Bar Association's *Model Rules of Professional Conduct*, the only AML measure applicable to lawyers is the *Voluntary Good Practices Guidance for Lawyers to Detect and Combat Money Laundering and Terrorist Financing*, issued by the ABA in 2010.

The AML obligations legal professionals are subjected to mainly fall under two categories: to apply and keep records on customer due diligence (CDD) on potential and current clients and, to report suspicions of money-laundering to law enforcement authorities or to the relevant professional supervisory body. However, as outlined in the following sections of this Helpdesk Answer, these obligations have faced resistance and litigation from the

legal community in certain countries, who argue that they conflict with the duty of professional secrecy.

Professional Confidentiality

Lawyers and other legal professionals play an essential role in criminal justice systems and the functioning of the rule of law. Over many centuries legislation has evolved to protect confidential communication between the lawyer and the client from disclosure to third parties, including state authorities. This confidentiality is considered central to establishing the level of trust between attorney and client when providing legal advice, and ultimately, to enable an effective defence in court (Hoffman & Lustenberger, 2023).

Virtually every developed legal system upholds the principle that communications between lawyers and their clients are, and should remain, confidential. Known by various terms such as “professional secrecy,” “attorney-client confidentiality,” and “legal privilege,” this concept is widely recognised as a fundamental pillar of a nation’s legal framework (IBA 2019, p. 7).

In common law jurisdictions such as the UK, Ireland, and Cyprus, *legal professional privilege* safeguards communications between a legal adviser—whether a solicitor, barrister, or attorney—and their client from disclosure without the client’s consent. This privilege is both a right of the client and a duty of the lawyer, and only the client has the authority to waive it (IBA 2019, p. 15).

The concept of *professional secrecy* in civil law countries, like France and Germany, differs significantly from *legal professional privilege* in common law jurisdictions. In civil law systems, the protection of lawyer-client communications arises from the lawyer’s duty of professional secrecy, whereas in common law countries, legal professional privilege is a right granted to the client to receive confidential legal advice. Additionally, unlike legal privilege, professional secrecy in some civil law jurisdictions does not extend to advice provided by in-house lawyers in the same way it applies to external lawyers working in law firms (IBA 2019, p. 19).

Confidentiality is also an internationally recognised principle. Principle 4 of the International Bar Association's "*International Principles on Conduct for the Legal Profession*" states: 'A lawyer shall at all times maintain and be afforded protection of confidentiality regarding the affairs of present or former clients, unless otherwise allowed or required by law and/or applicable rules of professional conduct' (IBA, 2011). This in turn is grounded in the universal principle of the right of access to justice and the rationale that the rule of law is protected where clients are encouraged to communicate freely with their legal advisors without fear of disclosure or retribution (FATF, 2019).

Professional confidentiality is governed by different rules in different jurisdictions. For instance, in civil law jurisdictions such as France and the Netherlands, professional secrecy laws and rules expressly impose obligations on the lawyer. In common law jurisdictions such as the US and UK, protection of confidential information from disclosure is achieved by the creation of "privileges" (also called exemptions) from the ordinary rules requiring information to be disclosed. There are differences in scope, however. In common law countries, not all communications between a solicitor and client are protected by privilege and may be required to be disclosed in legal proceedings (Schneider, 2006).

However, the underlying principle is the same everywhere: a lawyer is prevented (by law in many countries) from disclosing information given to them by their client in confidence to any third party, including governmental and judicial authorities. Importantly though, it is also acknowledged that protections afforded by these confidentiality obligations and privileges do not apply in cases where lawyers knowingly assist their clients in unlawful conduct for example fraud or money-laundering (European Lawyers Foundation & Council of Bars and Law Societies of Europe, 2021).

Anti-money laundering requirements for lawyers: international guidance and legal frameworks

Codes of professional secrecy for the legal profession have a long history. On the other hand, the requirements to report possible money-laundering offenses have emerged more recently, originating in the latter half of the twentieth century. As noted above, this stems from the growing recognition of the role of lawyers and other DNFPBs in laundering the proceeds of crime and corruption and is part of a wider effort to stop private sector actors from wittingly or unwittingly facilitating financial crime.

The FATF Recommendations offer 40 international standards to fight financial crime and are accompanied by a set of interpretative notes. Articles 1 and 2 of the Interpretative Note to Recommendation 23 'DNFBPs: Other measures' is worth quoting as it explicitly acknowledges the potential tension of these reporting requirements with professional secrecy:

"Lawyers, notaries, other independent legal professionals, and accountants acting as independent legal professionals, are not required to report suspicious transactions if the relevant information was obtained in circumstances where they are subject to professional secrecy or legal professional privilege.
It is for each country to determine the matters that would fall under legal professional privilege or professional secrecy. This would normally cover information lawyers, notaries or other independent legal professionals receive from or obtain through one of their clients: (a) in the course of ascertaining the legal position of their client, or (b) in performing their task of defending or representing that client in, or concerning judicial, administrative, arbitration or mediation proceedings" (FATF, 2012-2023)

As codified in law in many, but not all, countries and specified in the guidance from the FATF that have effectively set the global standard (see Box 1), anti-money laundering requirements fall broadly speaking, into two categories:

1. To apply customer due diligence (CDD) principles to potential or actual clients and to keep the appropriate records in case disclosure is required (Recommendations 10 and 11).
2. To report suspicions of money-laundering to law enforcement authorities or the relevant professional supervisory body (or self-regulatory body (Recommendations 20 and 21).

In addition to these two main categories, legal professionals are also bound by other FATF Recommendations. Recommendation 12 requires them to conduct enhanced due diligence on Politically Exposed Persons (PEPs). Recommendation 15 mandates the identification of AML risks associated with new technologies. Recommendation 17 clarifies that while the obligations under Recommendation 10 and 11 may be performed by third parties, the ultimate responsibility remains with the legal professional. Recommendation 18 requires the establishment of internal controls to implement FATF Recommendations, including within foreign branches and majority-owned subsidiaries. Finally, Recommendation 19 mandates enhanced due diligence for business relationships and transactions involving individuals, legal entities, or financial institutions from FATF-designated high-risk jurisdictions.

Box 1: FATF recommendations for legal profession (R22 & R23)

Recommendation 22

The customer due diligence and record-keeping requirements set out in Recommendations 10, 11, 12, 15, and 17, apply to designated non-financial businesses and professions (DNFBPs) in the following situations:

(d) Lawyers, notaries, other independent legal professionals and accountants – when they prepare for or carry out transactions for their client concerning the following activities:

- buying and selling of real estate.
- managing of client money, securities or other assets.

- management of bank, savings or securities accounts.
- organisation of contributions for the creation, operation or management of companies.
- creation, operation or management of legal persons or arrangements, and
- buying and selling of business entities.

Recommendation 23

The requirements set out in Recommendations 18 to 21 apply to all designated non-financial businesses and professions, subject to the following qualifications:

(a) Lawyers, notaries, other independent legal professionals and accountants should be required to report suspicious transactions when, on behalf of or for a client, they engage in a financial transaction in relation to the activities referred to in Recommendation 22.

It is important to note that these requirements do not apply to all activities that lawyers might offer, in particular the traditional activities of providing legal advice and representation. In keeping with FATF's risk-based approach, they pertain to economic activities that carry the highest risk of abuse for the purposes of money laundering (e.g. real estate transactions, financial transactions, setting up corporate structures) (FATF 2019).

In 2024, the FATF published the Horizontal Review of DNFBP Technical Compliance Related to Corruption, covering real estate agents, lawyers, notaries, other independent legal professionals, accountants, and trust and company service providers. At first glance, the review presents positive results; over half of FATF members scored above 80% in technical compliance (FATF 2024). Among the 35 nations surveyed by FATF, Portugal and Luxembourg performed best, fully meeting all technical recommendations for DNFBPs (ACAMS 2024).

However, significant gaps remained in major jurisdictions such as the United States, China, and Australia, which had yet to impose AML requirements on attorneys and other key enablers at the time of the FATF review. Since then, China and Australia have introduced AML obligations for lawyers, effective from 1 January 2025 and 1 July 2026, respectively (Ross & Zhou 2024; AUSTRAC 2025).

In contrast, efforts to strengthen AML oversight in the United States have stalled. The Establishing New Authorities for Businesses Laundering and Enabling Risks to Security (ENABLERS) Act, passed by the US House of Representatives in July 2022, sought to extend anti-money laundering obligations to DNFBPs, including lawyers. However, the American Bar Association opposed the Act, arguing that it could force lawyers to disclose attorney-client privileged and other protected client information to the government (Turner 2022). Legal analysis, however, has demonstrated that requiring lawyers to conduct such AML checks on clients is consistent with attorney-client privilege and confidentiality rules (Greytak 2022). Despite this, the ENABLERS Act was blocked by the US Senate in December 2022 (Govtrack.us n.d.). In its wake, the American Bar Association updated its Model Rules of Professional Conduct, adding provisions for lawyers to decline or withdraw from representing high-risk clients involved in potential money laundering (D'Aversa 2023).

While the technical compliance with FATF recommendations is far from perfect, the recommendations do influence national and regional legislation, for example, the European Union Anti-Money Laundering Directive (EU AMLD), as we shall see below. The approach adopted by FATF is to identify those activities that are subject to anti-money laundering requirements (roughly, economic activities) from those that are more 'traditional' domains of legal activity (providing legal advice and representation in legal proceedings). FATF also recommends jurisdictions to identify additional activities based on the national context that pose significant risk and consider adding them to the AML requirements, for example, the administration of deceased estates and the provision of insolvency, liquidation, tax advisory, and bankruptcy services (FATF 2012-2023; France 2021; Goredema 2018). Several cases illustrate the debates regarding professional confidentiality and AML requirements in practice. We now turn to these in the following section.

Compatibility of professional confidentiality and AML reporting requirements

Investigations by civil society organisations point to an eagerness by supposedly reputable law firms to take on assignments that should raise red flags. An investigation from Global Witness documented that 12 out of 13 New York law firms they approached provided advice on how to disguise the origins of large sums of money (Global Witness 2016).

Nonetheless, there has been vigorous debate around how to reconcile the obligations of professional legal confidentiality with the requirements of anti-money laundering legislation as defined by FATF and national lawmakers. Some members of the legal profession have resisted attempts to impose AML obligations on them, citing professional confidentiality, and have even litigated against AML requirements in courts in Canada and the European Union (Hofmann & Lustenberger 2023).

A mixture of principled and practical arguments has been mobilised by those attempting to resist the application of the AML regime to the legal profession. A common argument used by those who object to anti-money laundering reporting requirements being introduced for lawyers relates to the principle of legal professional privilege or professional confidentiality and claims that any breaches are incompatible with the functioning of the profession (Svenonius, O. & Mörth, U. 2020).

For example, in 2013, the British Columbia Court of Appeal considered whether lawyers and law firms were required to maintain records of clients potentially involved in money laundering and terrorist financing under the Proceeds of Crime and Terrorist Financing Act[2]. The Court ruled that the legislation and its associated regulations were unconstitutional, as they violated lawyers' and clients' right to liberty under the Canadian Charter of Rights and Freedoms. The decision reaffirmed that solicitor-client

[2] See: Federation of Law Societies of Canada v Canada (AG), 2013 BCCA 147.

confidentiality and the legal profession's independence from external influence are fundamental principles of Canada's legal system (Centre for Constitutional Studies 2013). As a result, Canadian lawyers remain self-regulated, with self-imposed anti-money laundering and anti-terrorist financing obligations (FINTRAC 2024).

However, an absolutist or maximalist nature of this position is difficult to defend. A more nuanced view advocates for jurisdictions to balance the right of access to justice on one hand with the public interest in investigating and prosecuting criminal activity on the other hand. Accordingly, it is widely accepted that legal professional privilege or professional secrecy does not protect a legal professional from knowingly facilitating a client's illegal conduct (FATF 2019, Goredema 2018). Moreover, measures for lawyers that prevent them from disclosing potentially incriminating information on their clients on the grounds of professional confidentiality- a not exist where the "crime/fraud" exception applies. In common law, under the "crime/fraud"[3] exception to legal privilege, confidentiality is not warranted where there is an illegal purpose related to ongoing or future activities whether or not the legal professional is aware of the illegality or is complicit in the illegality (O'Connell 2024). How these exceptions work in practice is a matter of national law (FATF, 2019).

European Jurisprudence

A set of arguments as to the claimed incompatibility of lawyers' professional confidentiality with AML requirements have been examined in a series of court cases that have been brought to supranational European courts (viz. the European Court of Justice (ECJ 2007; ECJ 2024) in Luxembourg and the European Court of Human Rights in Strasbourg (ECtHR 2012)) regarding the legality of EU anti-money laundering legislation, which closely follows the FATF recommendations.

[3] Under United States v. Zolin, 491 U.S. 554, the U.S. Supreme Court has explained: *The attorney-client privilege must necessarily protect the confidences of wrongdoers, but the reason for that protection–the centrality of open client and attorney communication to the proper functioning of our adversary system of justice–ceases to operate at a certain point, namely, where the desired advice refers not to prior wrongdoing, but to future wrongdoing. It is the purpose of the crime-fraud exception to the attorney-client privilege to assure that the "seal of secrecy" between lawyer and client does not extend to communications "made for the purpose of getting advice for the commission of a fraud or crime.*

In the first ECJ case, the litigants argued that the reporting requirements imposed by the 2001 EU 2AMLD were in breach of the right to a fair trial as stipulated by Article 6 of the European Convention on Human Rights (ECHR). They argued that the obligation of professional confidentiality can be derived from the need to protect communications between lawyers and their clients during legal proceedings. They noted that Article 6 (3) of the 2001 EU 2AMLD[4] provided exemptions with regard to legal advice and representation of legal proceedings but claimed this was "insufficient to protect lawyers' relationships with their clients" (Met-Domestici 2013).

The ECJ dismissed this argument, pointing to the limited scope the legislation. It noted that Article 2a(5)[5] of the 2001 EU 2AMLD ensured that that "the obligations of information and cooperation apply to lawyers only in so far as they advise their client in the preparation or execution of certain transactions – essentially those of a financial nature or concerning real estate – or when they act on behalf of and for their client in any financial or real estate transaction" (ECJ 2007, para. 33). It also disagreed with the litigants and found the explicit carve-out for legal advice and representation of legal proceedings in Article 6(3) to be sufficient.

In the ECtHR case, the litigants argued (ECtHR 2012, para. 2) that the 2005 EU 3AMLD as transposed into national law did not respect the right to private life nor private

[4] Article 6 (3) of the 2001 EU 2AMLD: *In the case of the notaries and independent legal professionals referred to in Article 2a(5), Member States may designate an appropriate self-regulatory body of the profession concerned as the authority to be informed of the facts referred to in paragraph 1(a) and in such case shall lay down the appropriate forms of cooperation between that body and the authorities responsible for combating money laundering. Member States shall not be obliged to apply the obligations laid down in paragraph 1 to notaries, independent legal professionals, auditors, external accountants and tax advisors with regard to information they receive from or obtain on one of their clients, in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings*.

[5] Article 2 a (5) of the 2001 EU 2AMLD:*Member States shall ensure that the obligations laid down in this Directive are imposed on the following institutions: 5. Notaries and other independent legal professionals, when they participate, whether: (a) by assisting in the planning or execution of transactions for their client concerning the (i) buying and selling of real property or business entities; (ii) managing of client money, securities or other assets; (iii) opening or management of bank, savings or securities accounts; (iv) organisation of contributions necessary for the creation, operation or management of companies; (v) creation, operation or management of trusts, companies or similar structures; (b) or by acting on behalf of and for their client in any financial or real estate transaction*.

correspondence as enshrined in Article 8 of the ECHR[6]. They argued that the obligation placed on lawyers to report suspicions constituted an interference with their right to respect for their correspondence, in that they were required to transmit to an administrative authority information concerning another person obtained through exchanges with him or her. They also claimed this amounted to an interference with their right to respect for their private life, which covered activities of a professional or business nature.

In its verdict, the court disagreed that the provisions constituted a disproportionate interference in fundamental rights regarding respect for private life, noting that the confidentiality obligations derived from Article 6 of the ECHR (right to a fair trial) are absolute, meaning the argument of a violation during a trial cannot be justified. Article 8 of the ECHR, in contrast, protects confidentiality beyond the context of a trial. Therefore, its protections are not absolute as it allows confidentiality to be breached under conditions set out in the convention i.e. in accordance with the law, in a proportional manner, for a legitimate aim and need of a democratic society (in this case the fight against financial crime).

The Court cited two important factors in support of their proportionality assessment. First, lawyers are compelled to report their suspicions only when they take part in business transactions on behalf of their clients and when they assist them in preparing or carrying out related transactions. Thus, "the obligation to report… only concerns tasks performed by lawyers which are similar to those performed by the other professions subjected to the same obligation, and not the role they play in defending their clients" (ECtHR 2012, para. 6). Second, lawyers are only obliged to report these suspicions to the national bar association: "The information was shared with a professional who was not only subject to the same rules of conduct but was also

[6] In the Case of Michaud v. France, the initial paragraph of the applicant submission reads as follows: *59. Noting that the Government did not dispute that Article 8 of the Convention protected legal professional privilege, the applicant maintained that the interference he complained of was not "in accordance with the law" within the meaning of that provision. He submitted that the regulations in question were unclear: they required lawyers to report "suspicions" without defining that term; the scope of the "activities" to which they applied was vague and it was difficult for a lawyer to segment or compartmentalise his activities into those which were concerned and those which were not. He added that the confidentiality of lawyer-client relations was indivisible: the law governing the legal professions specified that it applied both to defence and to advisory activities and concerned all the activities of lawyers and the files they dealt with.*

elected by his or her peers to ensure compliance with them, thus ensuring that professional privilege was not breached" (ECtHR 2012, para. 6).

More recently, a September 2024 judgement of the ECJ reinforced this jurisprudence (ECJ 2024, para. 76). It confirms the view that the right to private correspondence (in this case enshrined in Article 7 of the EU's Charter of Fundamental Rights (ECFR)) grants heightened protections to the correspondence between lawyers and clients, while also confirming that this right is not absolute. The case concerned a request for information by a member state on correspondence between a lawyer and a client concerning the incorporation of a corporate tax vehicle in the context of an EU Directive on Automatic Exchange of Tax Information (Council Directive 2011/16/EU). While in this case the Court agreed with the litigant that the requested correspondence – in effect, the entire client file – was protected by professional privilege, it did so based on the broad scope of the relevant national law in Luxembourg, which potentially applied to all legal advice provided in tax matters (ECJ 2024, para. 72). The applicability of this judgement to the more precise exceptions delineated in EU AMLD is not clear. However, the ruling makes it clear that the even when confidentiality applies to all areas of activities, not just legal representation, this does not negate lawyers and other legal professionals from their *mandatory reporting obligations* (ECJ 2024, para. 57).

A more general argument presented by the Council of the Bars and Law Societies of the EU in the 2007 ECJ case suggested that the very existence of AML requirements undermined public trust in the profession as a whole and took issue with the principle that different domains of legal activities could be demarcated for the purposes of AML legislation. Its view was that "the specific features of the legal profession – namely independence and professional secrecy – contribute to the trust which the public has in that profession, and that such trust in a lawyer applies generally, not only to particular tasks performed by that lawyer" (ECJ 2007, para. 14). Other litigants in the case also observed that "the distinction drawn by those provisions between activities essential to the work of a lawyer and ancillary activities is legally untenable and gives rise to a serious lack of legal certainty" (ECJ 2007, para. 13).

These more general arguments are not addressed specifically by the courts in the cases mentioned above, but Council tried to argue while it is possible in principle to draw a hard and clear distinction between the 'economic' activities of lawyers, that are not

subject to professional confidentiality obligations, and the ‘ traditional’ activities that are afforded legal protection, in practice the distinction is more ambiguous and may be difficult to discern in particular cases.

FATF acknowledges this dilemma in its guidance for the legal profession without clearly resolving it: “there may be cases in which these professionals conduct activities that are clearly covered by the legal privilege (i.e. ascertaining the legal position of their client or defending or representing their client in judicial proceedings) alongside activities that may not be covered by it. In addition, within a single matter, privilege may attach to some but not all communications and advice” (FATF, 2019).

The European Commission has also made efforts to provide guidance to legal professionals seeking to comply with their AML obligations while balancing their lawyer-client confidentiality. In their 2021 training for lawyers on AML rules in the EU, they concluded that suspicious reporting made in accordance with the specific circumstances outlined in the directive entails no breach of the European Convention on Human Rights or the Treaty on European Union. Furthermore, the manual reminds thar if the lawyer does not report when required, then such non-reporting lays the lawyer open to prosecution for an AML criminal offence (ELF & CBLSE 2021; p. 47).

The above court cases and guidance from FATF and the EU indicates that a distinction should be made in national legislation between economic and more traditional legal activities. We will return to this in examining the issue in some national jurisdictions in the following section.

Examples in select civil law jurisdictions

This section analyses the implementation of anti-money laundering legislation in four civil law jurisdictions in the EU: France, Germany, Netherlands, and Sweden.

Legal implementation

Civil law jurisdictions in the EU are required to transpose all anti-money laundering requirements for the legal profession that stem from the different iterations of EU AML Directives. The 2015 4AMLD incorporated, more or less word for word, the FATF recommendations regarding the legal profession as regards the specific activities that fall in the scope of the legislation and the exemption for legal advice and representation. The broad provisions set out by the directives have all been transposed into national law by EU member states, with differences across jurisdictions.

However, with the adoption of the 2024 EU AML package, the AML Regulation contains additional clarification of the scope of professional secrecy as follows: “legal advice should remain subject to the obligation of professional secrecy, except where the legal professional is taking part in money laundering or terrorist financing, the legal advice is provided for the purposes of money laundering or terrorist financing, or where the legal professional knows that the client is seeking legal advice for the purposes of money laundering or terrorist financing. Such knowledge and purpose can be inferred from objective factual circumstances.” (AML Regulation, para. 12). It is important to note that the obliged entities from EU Member States will have to be compliant with the provisions of the AML Regulation only from 10 July 2027. While the AML Regulation will directly bound EU Member States, the 2024 6AMLD still needs to be transposed into national legislation. Member States have three years to do so.

Article 3 of the AML Regulation defines the scope of the obliged entities. Lawyers and other independent legal professionals, are obliged when they participate, whether by acting on behalf of and for their client in any financial or real estate transaction, or by

assisting in the planning or carrying out of transactions for their client concerning any of the following activities:

- buying and selling of real property or business entities
- managing of client money, securities or other assets, including crypto assets
- opening or management of bank, savings, securities or crypto-assets accounts
- organisation of contributions necessary for the creation, operation or management of companies
- creation, setting up, operation or management of trusts, companies, foundations, or similar structures

Whenever lawyers engage in any of the previous activities, they are bound by all obligations applicable to obliged entities under the AML Regulations. This includes the two main categories of obligations outlined in Section 2: conducting customer due diligence measures under Article 20 and reporting suspicious transactions under Article 69.

Following from the preamble paragraph 12, Article 70 (2) and (3) of the AML Regulations further restates the conditions when the professional secrecy exception does not apply. Lawyers are exempt from reporting suspicions when they receive information from or on a client while defending or representing the client, including providing advice. The exception does not apply when the lawyers take part in the money laundering, provide advice for this purpose or know that the advice their client is seeking is for this purpose. The exception also does not apply where, based on higher risk of money laundering, Member States impose additional reporting obligations to specific lawyers conducting certain types of transaction. If Members States choose to add any additional obligations, they will need to communicate this to the Commission.

While Article 70(2) and (3) provide more concrete provisions on when professional secrecy is exempt, these rules remain open to interpretation. Additionally, varying reporting requirements across Member States further shape the balance between AML obligations and legal professional secrecy. Table 1 highlights these differences across four selected European countries.

TABLE 1. Obligations of the legal professionals under AML legislation in select civil law jurisdictions

FRANCE	Applicable AML Law	Ordonnance n° 2020-115 of 12 February 2020 strengthening the national framework for combating money laundering and terrorist financing Article L561-3 of the French Monetary and Financial Code
	Additions or clarifications to EU legislation	Detailed guidance on AML compliance by the French Bar Association has been published as recently as 2020. The guidance confirms the exceptions for legal advice and legal representation and provide further definitions and interpretation. For example, legal advice includes (p.19): -receiving and identifying the client, - examining and analysing the case in the light of the objectives presented by the client - the search for information and documents - whether originating from the client. - The application of legal rules and principles enabling the search for and drafting of one or more profiles of a lawful solution.
	Reporting body	Article L561-17 of the French Monetary and Financial Code: 'President of the Ordre des avocats au Conseil d'Etat et à la Cour de cassation' or to the 'President of the Bar Association' with which the lawyer is registered or to the President of the Bar Association with which the lawyer who has deposited the funds, bills or securities covered by this declaration is registered. Reports of suspicious activities must be forwarded to TRACFIN within eight days. Additionally, all financial transactions by French lawyers using client funds are conducted via the CARPA system, under the supervision of the French Bar Association. CARPA is also responsible for conducting due diligence measures.

		For the supervision of the handling of funds channelled through self-regulated professions, judicial trustees and notaries are required to operate in conjunction with the Deposit and Consignment Office (CDC) and lawyers with the CARPA when handling funds (FATF FR 2022, para. 138).
GERMANY	Applicable AML Law	Geldwäschegesetz – GwG Money Laundering Act Gesetz zur Umsetzung der Änderungsrichtlinie zur vierten EU-Geldwäscherichtlinie (Act Implementing the Amendment Directive to the Fourth EU Anti-Money Laundering Directive)
	Additions or clarifications to EU legislation	In October 2020, the German finance ministry issued the Money Laundering Reporting Ordinance-Immobilien. This introduced a rule-based procedure for legal professionals to report red flags in real estate transactions. This was introduced in response to the high-risk nature of the sector and previously low reporting rates (FATF DE 2022 para. 296). The German Federal Bar Association has issued guidance following the 2023 revision to the German AML law. This clarifies that positive knowledge of a money-laundering or other criminal offence triggers an obligation to report, regardless of professional confidentiality (p55, para 129 – see also p54, para 126, and p69, para 173).
	Reporting body	German lawyers are required to send reports directly to The Central Office for Financial Transaction Investigations (FIU), an independent government agency.
NETHERLANDS	Applicable AML Law	Dutch Money Laundering and Terrorist Financing Prevention Act (Wet ter voorkoming van witwassen en financieren van terrorisme, or Wwft).

	Additions or clarifications to EU legislation	The exemption for lawyers in Article 1(a), para (5) reflects EU provisions on legal advice and legal representation. As in Germany, the Dutch law also has a rules-based element which allows the legislator to specify what constitutes an 'unusual transaction' that must trigger a report. The only indicator so far is 'A transaction for an amount of €10,000 or more, paid to or through the institution in cash, with bearer cheques, a prepaid payment instrument (prepaid card) or similar means of payment' (Article 15, paragraph 1, Wwf) Hower the Minister of Finance has called for a change in the anti-money laundering approach, moving towards a simpler reporting framework requiring only to report suspicious transactions (Heinen 2025). According to guidance from the Netherlands Bar (NOvA), lawyers who have the 'reasonable assumption' that they are complying with their AML reporting obligations will not be prosecuted for a violation of Article 272 of the Code of Criminal law which criminalises breaches of professional confidentiality. Legal professional privilege (Dutch Code of Criminal Procedure, Articles 98 and 218) can be waived when letters or other papers are the subject of the offence or instrumental in its commission or when the court considers that the importance of establishing the truth in an individual case outweighs the public interest served by legal professional privilege.
	Reporting body	Dutch lawyers must send reports to FIU-the Netherlands, a statutory government agency. They cannot submit reports anonymously the Parliament clarified in 2019 (Allertz 2020).
SWEDEN	Applicable AML Law	Sweden's AML legal framework consists of two laws the Anti-Money Laundering Act (Lag

		(2017:630) om åtgärder mot penningtvätt och finansiering av terrorism) – for preventive measures - and the Act on Penalties for Money Laundering Offences.
	Additions or clarifications to EU legislation	The exemption for lawyers in Article 1, section 2 reflects EU provisions on legal advice and legal representation (also Article 4, Section 8) Article 4, Section 3 of professional confidentiality: "Information shall not be disclosed if there is a provision on confidentiality or professional secrecy applicable to the information and if there are serious grounds for considering that the interest which the confidentiality or professional secrecy is intended to protect takes precedence over the interest in disclosure. Nor shall information be disclosed to the extent that disclosure would be contrary to the legal duty of professional secrecy for lawyers." The Code of Professional Conduct for members of the Swedish Bar Association requires client relationships to be ended in cases where "the Advocate, in order to avoid violation of the anti-money laundering legislation, reports a client to the police" among other considerations (p.25). The Code also acknowledges the tension between AML requirements and professional confidentiality as follows: "The duty to present information may also apply to matters pertaining to the tax authorities and consistent with the Anti-Money Laundering Act. However, the fact that an advocate does not usually have to submit information to the detriment of his/her client remains a key principle." (p. 49) Guidance on AML implementation by the SBA clarifies that judicial proceedings should also encompass administrative proceedings (p.22) and also contains the following observation: "It can be stated that, since practically all of an advocate's activities aim at avoiding judicial

	proceedings, the proceedings exemption would be largely generally applicable. However, this wide interpretation of the term cannot really be made and would likely be rejected in an adjudication by the courts." (p.23) The SBA also clarifies that the exemption in relation to providing an assessment of a client's position should apply in cases where (a) initial consultations do not lead to a mandate and (b) the mandate is limited to legal assessments. It also clarifies that not all legal advice is covered by the exemption: "It should be emphasised that an assessment of a client's legal position is not synonymous with advice. Not all advice is exempted from the reporting obligation, not even all legal advice. Financial advice or general legal advice which is not linked to a specific situation is not covered by the exemption. This is also the case, of course, where the advocate is aware or has reason to believe that the client is requesting advice for the purpose of money laundering or terrorist financing". (p.23)
Reporting body	Lawyers are required to notify, without delay, their suspicions to Finanspolisen, the FIU located within the Swedish Policy Agency.

Compliance

This review highlights how different jurisdictions managed to balance confidentiality and AML obligations in national legislation or jurisprudences. The four jurisdictions we examine either have legal regimes that allow for exemptions to professional confidentiality where this is appropriately legislated for (Germany, Netherlands, Sweden) or the relevant national and European courts have found that AML reporting requirements are not an unwarranted infringement of professional secrecy (France).

At the same time, there have been growing concerns about AML compliance considering the extremely low – if increasing - levels of reporting in recent years. For example, in 2016, there were five suspicious activity reports (STRs) filed by the entire legal profession in Germany (ZOLL 2017, p. 8) only growing to 92 in 2022, (ZOLL 2023, p. 16). In France, lawyers are the only self-regulatory profession that hardly submits any reports, with only 16 STRs in 2020, most of which were made by the CARPA – the body that handles client funds on behalf of French lawyers. In 2018, only one STR was made (FATF MER 2022 para. 458).

Currently, lawyers and other reporting entities are required to submit Unusual Transaction Reports (UTRs) to the FIU which is broader than suspicious transactions. Nonetheless, in 2022, legal professions only submitted 15 UTRs (NL FIU 2022). In line with the implementation of the latest EU AML legislation, the Minister of Finance send a letter to the Parliament dated 20 January 2025, sharing the intention to only require the reporting of suspicious transactions in the near future. Even so, compliance is low for the sector (Heinen 20205).

There may be a range of factors explaining this low level of reporting. This includes low levels of awareness, and the relatively limited numbers of financial transactions compared to banks and credit institutions. However, it is possible that concerns about violating professional confidentiality obligations have also impeded full compliance with the law.

France

Svenonius & Mörth (2020) have documented a series of AML compliance strategies by both French and German lawyers. Chief among them is the prioritisation of Know Your Customer (KYC) processes as a way of fulfilling AML requirements, even though this is only one set of obligations under the EU AMLD: “French interviewees are very clear that their main compliance strategy is KYC. The idea is that if this stage is performed thoroughly, then the situation of having to report a client will not occur.”

Furthermore, this process is often pushed to financial or other specialist institutions even though this does not excuse them from their obligations: “The logic is easy: if a bank has already checked where the money comes from, then that is good enough” (Svenonius & Mörth 2020). In France, this is made easier by the existence of a dedicated

institution to handle client funds, the *Caisse des règlements pécuniaires des avocats* (CARPA). CARPA is not a financial institution, but a control body placed under the responsibility of the Bar Associations within the framework of the self-regulation of the profession for which they are responsible. Being carried out under the authority of the President of the Bar Association, the self-imposed controls protect the professional secrecy owed by the lawyer to his client, of which the President of the Bar Association is the guarantor. Carpa plays an important role in the French legal system by separating money transaction and funds from the control of the individual lawyer and the law firm. m. It is subject to the provisions of the Monetary and Financial Code applicable in this area and TRACFIN thereby benefits from a specific right of communication guaranteeing the banking traceability of all the financial flows verified by the CARPA (CARPA 2020).

Sanctions for breaches of offences are rare. FATF reports that since 2015, only one disciplinary sanction consisting of a one-month ban from practicing has been imposed for AML/CFT breaches (FATF MER 2022, para. 535)

Germany

In Germany's 2020 evaluation, FATF has noted that “lawyers and other legal professionals, notaries… all considered that their professional secrecy obligations inhibit STR filing. The legal profession’s interpretation of legal professional privilege is broad: many lawyers and notaries consider that they are required to file a STR only where they have positive knowledge that they are being used for [Money Laundering or Terrorism Financing].” (FATF DE 2020, p. 140).

More broadly, Svenonius & Mörth characterised compliance in Germany as one of “reluctant accommodation”. Following initial protests, the profession established procedures for accommodating the new legal norms. Nonetheless, they note that “the EU legal norms have little effect in standard setting as there are few sanctions and low risk of exposure” (Svenonius & Mörth 2020, Section 5, conclusion).

As an example of the lack of dissuasive sanctions, the Mutual Evaluation Report 2022 on Germany cites the following example (Box 6.1): “The Berlin regional court sentenced a lawyer to a suspended prison sentence of 18 months for three counts of [Money Laundering]” (FATF DE 2022). The lawyer had received a “considerable amount” of cash from his client and held it in safekeeping despite knowing that the money was the

proceeds of crime. The Court noted that "An order banning the exercise of the profession … was not considered as an option" as it was the lawyer's first offence, and he had since distanced himself from the client. [Subsequently,] the Berlin Bar Court imposed a partial ban on exercising activities in the field of criminal law for a period of 18 months."

Netherlands

As noted above, compliance with AML requirements by lawyers in the Netherlands has also been an issue with relatively few 'unusual transactions' reported. This has also been highlighted in the most recent FATF evaluation (FATF NL 2022, p.11), which notes that this is despite the generally good levels of awareness and understanding among lawyers of their AML obligations. There are relatively few shortcomings detected in KYC practices among the legal professionals supervised in comparison to other DNFPBs (FATF NL 2020 p.132). As in other jurisdictions, this suggests that lawyers believe it is sufficient to comply with KYC procedures to fulfil their AML obligations.
The Netherlands Bar Association (NOva) argues that AML requirements only apply to 28 per cent of the 18,000 registered lawyers, based on the self-declaration they submit annually indicating if they have carried out services within the scope of the Dutch AML legislation (see above).

Law enforcement professionals speaking to FATF reviewers raised concerns about how professional confidentiality is a significant obstacle to prosecuting complex AML cases, which in virtually all case require access to documents held by legal professionals. The defence often invokes professional confidentiality in such cases, with the result that several legal hurdles must be overcome to access the information. "In practice, the entire process takes a considerable amount of time: an average of 211 days for examination by the investigative judge; 346 days to be discussed in Court; and 269 days to reach the Supreme Court" (FATF NL 2022 p. 65). The result delays to investigations and in some cases reduced sentences because of breaches of the "undue delay" principle.

Although administrative fines and sanctions are foreseen by the applicable AML law, NOvA states that local bar presidents prefer to use disciplinary proceedings, which can result in reprimands, suspension or disbarment, as opposed to administrative measures. Since 2016, there have been 24 disbarments, 45 suspensions, and only 19

administrative measures which include AML failings. While FATF notes that disciplinary proceedings can have a significant impact on lawyers, it also points out that they are "infrequent and not always proportionate or dissuasive" (FATF NL 2022 p. 162).

Sweden

Interviews with Swedish lawyers reveal the same diffidence and ambiguities that are a feature of German and French lawyers' compliance (Helgesson & Mörth 2018). There is a strong tradition of self-regulation via the Swedish Bar Association (SBA), which also acts as the designated body monitoring compliance with AML legislation.

The SBA has issued legally binding guidance to Swedish lawyers on how to comply with EU AML legislation. This guidance is explicit about an important point that is implicit in the implementation of the AML regime for lawyers in other countries, that in order to handle clashes of roles and regulations, and ambiguities within the legislation, it is: "normally the lawyer responsible for the client or case that decides which information is possibly to be disclosed" (Swedish Bar Association 2008). This emphasises the subjectivity of judgement and self-regulation that characterises this compliance regime.

Like their German counterparts, Swedish lawyers have become more accommodating to the expectations and responsibilities of the AML legislation over time, particularly with regard to KYC procedures. Contrary to the view of that AML requirements would decrease trust overall in the legal profession, the view in Sweden was that clients, at least large ones, were used to being asked about their identity by lawyers and tended to be prepared to provide information: "There is greater awareness of these rules on the market" (Helgesson & Mörth 2018).

With regard to reporting suspicions of money-laundering, there was a perception that this could breach professional codes related to client confidentiality, despite the safeguards and guidance in the legislation. Although there was an overall high degree of confidence in individual professional judgement, Swedish lawyers noted the risk of clients being misrepresented and innocent persons being reported: "But one may be wrong – and if we report on our own client, we have broken our ethical rule." However, it is important to remember that even if a client is not involved in money laundering, a report merely indicates suspicion and may potentially trigger an investigation. It does not constitute a declaration of criminal activity in any way.

Similar to the French and German cases, there was a tendency to outsource the responsibility of KYC procedures as much as possible to financial institutions and specialist agencies even though this does not excuse lawyers of their responsibility. When it came to reporting suspicions, lawyers attested to being frequently unsure as to whether the AML legislation applied or whether the case was covered by professional confidentiality. While they understood the distinctions in law between financial transactions on one hand and representation in legal proceedings on the other, they noted that this classification of clients and cases was not always clear cut.

Helgesson and Mörth (2018) conclude: "in terms of deciding what was to be reported or not, [Swedish] lawyers considered the regulation quite broad in its scope. Yet, they had drawn the conclusion that the regulator did not want reports to the financial police on every possible small offence… The result was that very few activities and transactions were deemed reportable by our informants; Most of our informants had not been involved in reporting anything to the Financial Police. None of them had reported a transaction with an existing client." This low level of reporting has been confirmed by FATF evaluation reports, and problematic as so-called "small offences" are subjective and not excluded from the reporting obligation (FATF SE 2017, p. 101).

The SBA issues warnings, reprimands, or fines or disbars lawyers. With respect to AML issues, two lawyers were disbarred in 2003. Between 2003 and 2016, there were no further enforcement measures for AML/CFT against lawyers (FATF SE 2017).

The low reporting levels and lack of enforcement measures indicates a need to raise awareness, promote the dissemination of key EU AML principles and requirements, and establish effective deterrence among lawyers across the EU. Initiatives such as the EU Commission's Training for Lawyers on Anti-Money Laundering (AML) and Counter-Terrorist Financing (CTF) Rules could benefit from an update, particularly considering the adoption of the 2024 AML Package (ELF & CBLSE 2021).

References

ACAMS. 2024. FATF Raises Alarm Over 'Gatekeeper' AML Gaps. MoneyLaundering.com Breaking News.

Allertz, S. 2020. Questions in Dutch Parliament: confidentiality of parties reporting unusual transactions. NautaDutilh.

American Bar Association. 2025. Model Rules of Professional Conduct.

American Bar Association. 2023. Revised Resolution of Standing Committee on Ethics and Professional Responsibility Standing Committee on Professional Regulation.

American Bar Association. 2010. Voluntary Good Practices Guidance for Lawyers to Detect and Combat Money Laundering and Terrorist Financing.

Australian Transaction Reports and Analysis Centre, AUSTRAC. 2025. AML/CTF Reform: New industries and services to be regulated.

CARPA. 2020. The Fight Against Money Laundering and the Financing of Terrorism; The CARPA System.

Centre for Constitutional Studies. 2013. Federation of Law Societies of Canada (FLSC) v Canada: Lawyers exempt from obligation under proceeds of crime law.

Conseil National des Barreaux Les Avocats. 2020. Guide pratique lutte contre le blanchiment de capitaux et le financement du terrorisme (Practical Guide to Combating Money Laundering and Terrorist Financing).

Court of Justice of the European Union. 2007. Ordre des barreaux francophones et germanophone v. Conseil des Ministres. Case C-305/05.

D'Aversa, A. 2023. American Bar Association Revises Model Rule of Professional Conduct to Combat Money Laundering. Money Laundering Watch.

Duparc, A, Bachmann, R. 2024. Lawyers providing "non-typical" services in Switzerland take a stand. Public Eye.

European Court of Human Rights. 2012. Michaud v. France. Case No. 12323/11.

European Lawyers Foundation & Council of Bars and Law Societies of Europe. 2021. Training user's manual for lawyers on anti-money laundering (AML) and counter terrorist financing (CTF) rules at EU level. Elaborated under the European Commission Service contract JUST/2018/JACC/PR/CRIM/0185)

European Parliament and Council. 2001. Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on the prevention of the use of the financial system for the purpose of money laundering. (2AMLD) Official Journal of the European Communities, L 344, 76–82.

European Parliament and Council. 2005. Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. (3AMLD) Official Journal of the European Union, L 309, 15–36.

European Parliament and Council. 2024. Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms that Member States should put in place to prevent the use of the financial system for the purpose of money laundering or terrorist financing, amending Directive (EU) 2019/1937 and amending and repealing Directive (EU) 2015/849. (6AMLD) Official Journal of the European Union, L 1640.

European Parliament and Council. 2024. Regulation (EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing. (AML Regulation) Official Journal of the European Union, L 1624.

FATF. 2012-2023. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation.

FATF. 2019. Guidance for a Risk-Based Approach for Legal Professionals.

FATF. 2024. Horizontal Review of Gatekeepers' Technical Compliance Related to Corruption.

FATF DE. 2022. Anti-money laundering and counter-terrorist financing measures –Germany, Fourth Round Mutual Evaluation Report.

FATF FR. 2022. Anti-money laundering and counter-terrorist financing measures – France, Fourth Round Mutual Evaluation Report.

FATF NL. 2022. Anti-money laundering and counter-terrorist financing measures – The Netherlands, Fourth Round Mutual Evaluation Report.

FATF SE. 2017. Anti-money laundering and counter-terrorist financing measures - Sweden, Fourth Round Mutual Evaluation Report.

Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). 2024. Special Bulletin on the use of the legal profession in money laundering and sanctions evasion.

France. 2025. Code monétaire et financier (Monetary and Financial Code). Official Journal of the French Republic, JORF.

France. 2020. Ordonnance n° 2020-115 du 12 février 2020 renforçant le dispositif national de lutte contre le blanchiment de capitaux et le financement du terrorisme (Order No. 2020-115 of 12 February 2020 strengthening the national system for combating money laundering and terrorist financing), Official Journal of the French Republic, JORF.

France, G. 2021. Professional enablers of illicit financial flows and high-risk services and jurisdictions. Transparency International Anti-Corruption Helpdesk Answer.

Freigang, V. & Martini, M. 2023. Loophole Masters: How enablers facilitate illicit financial flows from Africa. Transparency International.

German Bar Association (Bundesrechtsanwaltskammer). 2024. Auslegungs- und Anwendungshinweise zum Gesetz über das Aufspüren von Gewinnen aus schweren Straftaten (Geldwäschegesetz – GwG) (Interpretation and Application Guidelines for the Law on Tracing Proceeds of Serious Crimes (Anti-Money Laundering Act – GwG). 8th Edition.

German Federal Constitutional Court (Bundesverfassungsgericht, BVerfG), Oct. 8, 1976, 38 BvR 105, 111.

German Federal Constitutional Court (Bundesverfassungsgericht, BVerfG), Mar. 30, 2004, 2 BvR 1520/01, 1521/01; 2 BvR 110, 226.

Germany. 2019. Gesetz zur Umsetzung der Änderungsrichtlinie zur vierten EU-Geldwäscherichtlinie (Act Implementing the Amendment Directive to the Fourth EU Anti-Money Laundering Directive). Federal Law Gazette (Bundesgesetzblatt).

Germany. 2020. *GwGMeldV-Immobilien* (Money Laundering Act Reporting Ordinance - Real Estate). Federal Law Gazette (Bundesgesetzblatt).

Global Witness. 2016. Undercover investigation of American lawyers reveals role of Overseas Territories in moving suspect money into the United States.

Goredema, C. 2018. Not above the law? The role of lawyers in combating money laundering and illicit asset flows. The Global Initiative Against Transnational Organized Crime. Policy Note.

Govtrack.us. No date. H.R. 5525 (117th): ENABLERS Act. Bills and Resolutions Tracker.

Greytak. 2022. The Compatibility of Proposed AML Requirements With Existing Legal Ethics Rules. Transparency International US.

Heinen, E. 2025. Financial Sector Vision 2025. The Netherlands Chamber Document.

Helgesson, K.S. & Mörth, U. 2018. Client privilege, compliance and the rule of law: Swedish lawyers and money laundering prevention. Crime Law Soc Change 69, 227–248.

Hoffman, R & Lustenberger, L. 2023. Reporting Obligations for Attorneys in Money Laundering Cases: Attorney-Client Privilege Under Pressure? German Law Journal. 24(5):825-837.

International Bar association. 2011. International Principles on Conduct for the Legal Profession.

International Bar association. 2019. International Report on Professional Secrecy and Legal Privilege.

Met-Domestici, A. 2013. The Reform of the Fight against Money Laundering in the EU. EUCRIM.

Netherlands. 2018. Wet ter voorkoming van witwassen en financieren van terrorisme (Dutch Money Laundering and Terrorist Financing (Prevention) Act, Wwft). Official Gazette of the Kingdom of the Netherlands.

Netherlands Bar Association (Nova). 2023. The lawyer as gatekeeper against money laundering.

Netherlands -FIU 2022. Netherlands-FIU Annual Report.

Nougayrède, D. 2019. Anti-Money Laundering and Lawyer Regulation: The Response of the Professions. Fordham International Law Journal, 43:2.

O'Connell, S. 2024. Privilege Pierced by Ongoing or Future Wrongful Conduct: The Crime-Fraud Privilege Exception Is Broader Than You Think. Defense Counsel Journal, 91:1.

Ross, L. & Zhou, K. 2024. China Amends Its Anti-Money Laundering Law. Wilmer Hale.

Schneider, S. 2006. Testing the limits of solicitor-client privilege: Lawyers, money laundering, and suspicious transaction reporting. Journal of Money Laundering Control. 9(1):27-47

Svenonius, O. & Mörth, U. 2020. Avocat, rechtsanwalt or agent of the state? Journal of Money Laundering Control, 23 (4): 849-862

Sweden. 2017. Lag om straff för penningtvättsbrott (Act on Penalties for Money Laundering Offences). Swedish Law.

Swedish Bar Association. 2008. Code of Professional Conduct for Members of the Swedish Bar Association.

Swedish Bar Association. 2020. Guidance for advocates and law firms on the Act on Measures against Money Laundering and Terrorist Financing The money laundering legislation from the perspective of advocates.

Turner, R.M. 2022. Opposition to ENABLERS Act Amendment to the FY 2023 National Defense Authorization Act. Presidency of the American Bar Association.

U.S. Supreme Court.1989. United States v. Zolin, 491 U.S. 554. Library of Congress.

ZOLL. 2018. Jahresbericht 2017 Financial Intelligence Unit.

ZOLL. 2023. Jahresbericht 2022 Financial Itelligence Unit.

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