CORPORATE CRIMINAL LIABILITY FOR MONEY LAUNDERING IN LIGHT OF INTERNATIONAL STANDARDS: A COMPARATIVE PERSPECTIVE

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Abstract

Money laundering is one of the most serious financial crimes due to its connection with organized crime and illegal activities (Pavlidis, 2024; Alnor et al., 2025). Recent studies have addressed this issue from various angles, but they have not examined the liability of legal entities under Libyan legislation nor the extent to which its provisions align with French law and modern international standards in combating money laundering. This study, using a comparative analytical approach, aims to bridge this gap by evaluating the Libyan legal framework governing the liability of legal entities and highlighting shortcomings regarding the scope of liability and the effectiveness of penalties. The results show that Libyan legislation limits the scope of liability to financial and banking institutions, unlike French law and international recommendations, which expand the scope of liability to include all legal entities, including non-profit organizations. Furthermore, penalties in Libya are weak and ineffective. Our study contributes by proposing a legislative framework that broadens the scope of liability, links fines to a percentage of profits, and expands the scope of confiscation, thereby strengthening the fight against money laundering in Libya, ensuring the integrity of the financial sector, and reducing the risks associated with money laundering.

Keywords: Criminal Liability, Financial Crimes Legal Entities, Libyan Legislation, Money Laundering, International Standards

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1. INTRODUCTION

Money laundering is the practice of concealing the source of illegally acquired funds (Halford et al., 2025), often through a number of complex financial arrangements or layers of cross-border transactions (Eulaiwi et al., 2024; Hossain, 2025). It is one of the most serious crimes, as the growth and development of organized crime depend heavily on money laundering (Gilmour, 2016; Agustino et al., 2023).

Money laundering is closely linked to organized crime and illegal activities such as illicit arms trafficking, migrant smuggling, and cybercrime (Pavlidis, 2024; Alnor et al., 2025).

Money laundering can also lead to economic instability through various means, such as damaging a country's banking and financial sector and impacting purchasing power (Khelil et al., 2024; Al-Khayyat et al., 2025). Money laundering is a global concern (Sonsuphap, 2022). The United Nations Office on Drugs and Crime estimates that between 2% and 5% of global gross domestic product (GDP), equivalent to US$800 billion to US$2 trillion, is laundered annually (Tiwari et al., 2025).

Furthermore, money laundering proceeds can influence political decisions by buying votes and corrupting politicians. Money laundering manipulates votes and corrupts politicians, leading to criminal gangs controlling political decisions (Loayza et al., 2019).

There are extremely serious social consequences of money laundering (Mintoff & Vella, 2025), including widening the financial gap between social classes, undermining the moral fabric of society, and undermining democratic institutions (Kumar, 2015). A perpetrator may then commit other crimes in order to convert the proceeds of illicit criminal activities into legitimate funds.

In addition to traditional methods, money laundering can be committed electronically, making these crimes more insidious and dangerous than ever before (Cooke & Marshall, 2024). Crime has evolved alongside scientific and technological advancements (Alzwae, 2019). While money laundering can be perpetrated by individuals, it most often occurs through legal entities, particularly banks and other financial institutions (Isa et al., 2015).

For this reason, international efforts to combat money laundering have intensified, culminating in the 2000 United Nations Convention against Transnational Organized Crime and the Protocols Thereto (UNTOC) and the 2003 United Nations Convention against Corruption (UNCAC). These international efforts have had a significant impact at the national level, with the Libyan legislature enacting Law No. 2 of 2005 on Anti-Money Laundering (2005) and Law No. 5 of 2022 on Combating Cybercrimes (2022), which both criminalize money laundering through electronic means.

The Libyan government recently established the Anti-Financial Crimes, Anti-Money Laundering, and Counter-Terrorism Financing Authority under Decision No. 195 of 2024 on Establishing the Agency for Combating Financial Crimes, Money Laundering, and Terrorism Financing. However, despite numerous studies on money laundering, the criminal liability of legal entities in Libya has not been addressed in comparison with French law and modern international standards. This is the focus of our study.

The study is based on the theoretical framework of the criminal liability of legal entities according to the theory of attribution. This theory holds that a criminal act is attributed to a legal entity if the crime is committed in its name, for its benefit, or through one of its organs or representatives.

The importance of this framework lies in its recognition that legal entities are capable of making independent decisions and possessing organizational will that can influence the financial and economic activity of the state. We believe this is particularly relevant in money laundering crimes, where companies and institutions are used as intermediaries to conceal illicit funds.

The study clarifies the scope of the criminal liability of legal entities in relation to money laundering in Libya, the effectiveness of current sanctions in strengthening anti-money laundering efforts, and offers proposals to enhance compliance with international anti-money laundering standards. The importance of this study lies in its attempt to provide a comparative legal perspective that contributes to the development of Libyan legislation in combating money laundering.

This legislation addresses the use of legal entities as intermediaries to conceal illicit funds, aligning with international best practices. This is particularly relevant given international reports confirming the involvement of legal entities in Libyan money laundering (United Nations Interregional Crime and Justice Research Institute [UNICRI], 2021). This underscores the importance of establishing criminal liability for legal entities to enhance deterrence in the fight against money laundering.

The study employs a comparative analytical approach to examine the provisions of Libyan Law No. 2 of 2005 on Anti-Money Laundering and Law No. 5 of 2022 on Combating Cybercrimes. It compares these laws with French law and international standards in combating money laundering, as well as relevant Arab legislation where necessary.

The aim is to assess the effectiveness of Libyan legislation in combating money laundering, identify legal gaps, and propose appropriate solutions. This study aims to provide a critical analysis of the Libyan legal framework and propose a reform model that strengthens the criminal accountability of legal entities and aligns with international standards for combating money laundering in Libya.

It seeks to answer the central research questions:

RQ1: To what extent does the Libyan legal framework provide adequate legal protection?

RQ2: Does the regulation of the criminal liability of legal entities for money laundering comply with French law and modern international standards?

Further questions arise:

RQ3: What is the scope of criminal liability for legal entities in Libya compared to French law and international standards?

RQ4: Do current penalties provide sufficient deterrence?

RQ5: What legislative reforms are possible to strengthen the fight against money laundering in Libya?

The rest of this study is structured as follows. Section 2 reviews the relevant literature, presenting recent studies and research gaps on the criminal liability of legal entities for money laundering. Section 3 analyzes the research methodology adopted in this study, employing a comparative analytical approach to evaluate Libyan legislation and compare it with French law and international standards. Section 4 presents the research results and discusses the findings, including the scope of criminal liability for legal entities in Libyan legislation and the effectiveness of penalties, along with an analysis of the shortcomings and legal gaps in anti-money laundering legislation compared with French law and international standards. Section 5 concludes the paper, providing recommendations, summarizing the most important findings, and proposing possible legislative reforms to strengthen anti-money laundering efforts by legal entities in Libya.

2. LITERATURE GAP AND SIGNIFICANCE

Recent studies have addressed money laundering and related financial crimes from various perspectives, including the study by Altoumi et al. (2022). Rose's (2021) study discussed the necessary reforms for recovering smuggled assets but did not address the accountability of legal entities for their role in concealing illicit proceeds. Gjozinska et al.'s (2024) study focused on the importance of combating money laundering to promote governance and development without addressing the criminal liability of legal entities. Syahda et al.'s (2024) study focused on money laundering in the banking sector without addressing the situation in Libya. Moiseienko's (2022) study highlighted the shortcomings of international law in criminalizing the facilitation of money laundering, which is reflected in national legislation. Similarly, Shwetha's (2025) study and Östman et al.'s (2025) study proposed technical models to enhance money laundering detection without addressing the legal mechanisms for combating money laundering.

Therefore, a research gap emerges that our study seeks to address: the absence of a comparative study of the Libyan legal system governing the criminal liability of legal entities for money laundering with French law and modern international standards.

The significance of this study lies in its subject matter, as the criminal liability of legal entities is a relatively recent concept in criminal jurisprudence (Yanos, 2023), and its development is notable in legal systems (Teichmann et al., 2023). This has subsequently influenced legislative positions. especially considering international reports indicating the involvement of Libyan legal entities in illicit financial flows (UNICRI, 2021).

3. RESEARCH METHODOLOGY

This study employs a comparative analytical approach, analyzing the texts of Law No. 2 of 2005 on Anti-Money Laundering and Law No. 5 of 2022 on Combating Cybercrimes in Libya. These laws are compared with French law and relevant international standards for combating money laundering, as well as some Arab studies where necessary.

The aim of this comparison is to clarify the effectiveness of Libyan legislation in holding legal entities accountable, to identify shortcomings in Libyan legislation, and to propose appropriate legislative solutions to address these gaps.

The study utilizes a qualitative approach based on analyzing and comparing legal texts within a critical framework.

This framework aims to assess the effectiveness of Libyan legal texts in combating money laundering through legal entities. It also draws upon comparative legislative experiences in France and some Arab countries, in addition to modern international standards related to combating money laundering.

The analytical approach was used to interpret the legal texts and deduce the legislator's intent, while the comparative approach was employed to highlight similarities and differences between the legislations studied and to identify potential areas for improvement in Libyan legislation.

The analytical approach was used to interpret the legal texts and deduce the legislator's intent, while the comparative approach was used to highlight similarities and differences between the legislations studied and to identify potential areas for improvement in Libyan legislation.

Although we adopted the qualitative approach in our study, it was possible to use alternative approaches, such as the descriptive analytical approach to trace the historical development of the responsibility of legal entities in money laundering crimes or the statistical approach to measure the effectiveness of the application of laws in practice.

However, the purely legal nature of the subject made it more appropriate, in our view, to focus on the comparative analysis of legislative texts rather than experimental or quantitative methods.

4. RESULTS AND DISCUSSION

Money laundering crimes are classified as economic crimes, primarily driven by the desire for illicit wealth (Lord & Levi, 2023), a motivation prevalent among legal entities (Brahmantya, 2024). Therefore, excluding or restricting the criminal responsibility of legal entities in money laundering means that punishment would not be effective in those cases (Isroilov et al., 2021).

The broad scope of activities of legal entities, due to their capabilities unavailable to natural persons (Brahmantya, 2024), enables them to succeed in various sectors, such as commercial companies, banks, political parties, associations, unions, and clubs (Al-Asi, 2020). Legal entities may commit money laundering under the guise of economic activity (Tiwari et al., 2025), increasing the incidence of such crimes compared to individuals.

Excluding the criminal responsibility of legal entities in money laundering and only punishing the individual committing the act means the real perpetrator, the legal entity, escapes punishment, benefiting from the crime (Zufarov, 2023).

Criminal liability of legal entities ensures the state can impose significant financial penalties on entities with substantial financial capacity, beyond that of individuals (Elezi, 2024), turning these penalties into significant revenue for the state to mitigate money laundering effects in society (O'Malley, 2010).

Criminal responsibility of legal entities avoids state expenses associated with imprisonment, which are inapplicable to them (Al-Asi, 2020). Financial sanctions are an important tool to combat economic crimes (Lupton, 2024). Most money laundering crimes are committed by various legal entities, not just individuals, increasing their severity and societal harm when committed by entities (Lord et al., 2019).

4.1. Criminal responsibility of the legal entity's structure

As a general rule, Libyan legislators do not establish the criminal responsibility of legal entities, except in specific laws like Law No. 2 of 2005 on Anti-Money Laundering and Law No. 5 of 2022 on Combating Cybercrimes. In contrast, French legislators hold legal entities criminally liable for all crimes under Article 121-2 of the Penal Code, except for the state, while local and regional authorities are liable for crimes committed during activities within a public service delegation agreement, such as operating theatres or cinemas (Decision No. 01-83.160, 2002). French law requires the crime to be committed by the entity's body or representative on its behalf (Judgment No. 10-86.974, 2012).

The Libyan legislator's exclusion of general criminal responsibility for legal entities overlooks their significant economic role, making it challenging to exclude them (Arlen, 2012). Legal entities should be held liable for all crimes except those inherently unsuitable for them.

4.1.1. Criminal responsibility of the individual committing the crime

Libyan legislators do not explicitly state that an individual is liable for crimes committed on behalf of or for the benefit of a legal entity. In contrast, French law, under Article 121-2 of the Penal Code (Quisse, 2009), explicitly states that the criminal responsibility of a legal entity does not preclude the criminal responsibility of an individual committing the crime (Martin, 2020). Although not explicitly stated, Libyan law implies that the criminal responsibility of a legal entity does not substitute for a natural person's responsibility.

The natural person commits the crime and should be held accountable, while the legal entity's responsibility is contingent upon the individual's criminal act, as the entity cannot commit crimes independently of human intervention (Ma & Ryder, 2025). Libyan legislators should align with the French approach, emphasizing that the criminal responsibility of a legal entity does not exclude an individual's responsibility. This principle is reflected in international standards, such as Article 11(2) of the 2010 Arab Convention on Combating Money Laundering and Terrorist Financing (ACCMLTF)[1], which states that liability of legal persons, whether criminal, civil, or administrative, for committing money laundering and terrorist financing crimes shall not affect the criminal liability of natural persons who committed the same crimes.

A similar approach has been adopted by Article 10(3) of the UNTOC (United Nations Office on Drugs and Crime [UNODC], 2000), Article 5(3) of the 2010 Arab Convention on Combating Organized Crime, and Article 26(3) of the UNCAC (UNODC, 2003), particularly when it comes to the crime of money laundering.

4.1.2. Criminal responsibility of the person responsible for the actual management of the legal entity

The Libyan legislator did not address the criminal responsibility of the person responsible for the actual management of the legal entity in Law No. 2 of 2005. However, the French legislator has established the criminal responsibility of the person responsible for the actual management of the legal entity according to Article 324-9 of the Penal Code (Martin, 2020), consistent with Article 26 of the UNCAC. It should be noted that the French legislator has expanded criminal responsibility to include crimes committed by the bodies or representatives of legal entities (Quisse, 2009).

The Libyan legislator stipulated the criminal responsibility of the person responsible for the actual management of the legal entity in money laundering crimes committed through electronic means, according to Article 40 of Law No. 5 of 2022 on Combating Cybercrimes (2022), as well as in Article 115 of Law No. 1 of 2005 on Banks (2005). However, the Libyan legislator did not clarify what is meant by the person responsible for actual management. In fact, the international standards through Article 11 of the ACCMLTF, Article 26 of the UNCAC, and UNCTOC emphasize the need for effective measures to hold the liability of legal entities, which necessitate a precise definition of the concept of "actual management".

Upon reviewing Law No. 22 of 2010 on Communications, we find it also lacks a clear definition. Despite the absence of a specific definition, it is understood from the use of the term "actual management" that the legislator does not consider the management stated in the legal entity's Articles of Association, but rather the person who exercises management in practice.

The management stated in the Articles of Association could be nominal, merely on paper, while the actual management is carried out by another person or entity. This approach by the legislator is commendable as it prevents legal manipulations. It can be said that the person responsible for the actual management of the legal entity is the one who has the de facto authority to make decisions, exercising all managerial powers defined in the Articles of Association (Rozès, 2012).

Hence, the criminal responsibility of the person managing the legal entity arises when they hold delegated authority, whether by law or in practice (Decision No. 22-83.516, 2023). It is clear that the criminal responsibility of the person responsible for the actual management of the legal entity, as stipulated in Law No. 5 of 2022 (2022), is limited to money laundering crimes committed through electronic means only.

Additionally, the criminal responsibility of the person responsible for the actual management, as stated in Article 115 of Law No. 1 of 2005, is limited to money laundering operations conducted through banks. This law does not penalize money laundering itself but rather penalizes the bank for failing to adhere to procedures concerning returned checks and measures to combat money laundering and terrorism financing, according to Articles 56 and 96.

It is noteworthy that the Libyan legislator has stipulated the criminal responsibility of the person responsible for the actual management of the legal entity in Law No. 6 of 2022 on Electronic Transactions (2022) and Law No. 22 of 2010 on Communications (2010).

There is no doubt that money laundering crimes are no less dangerous than those stipulated in these laws. In fact, money laundering, when committed by a legal entity, poses greater harm to society than those crimes (Valvi, 2023) compared to those committed by an individual (Qarfi, 2022). Therefore, there is no logical justification for differentiating between these cases.

4.2. Conditions for establishing criminal responsibility of legal entities

The Libyan legislator, in Law No. 2 of 2005, requires that the crime be committed in the name and for the benefit of the legal entity to establish criminal responsibility. However, the legislator narrows the scope of responsibility by additionally requiring that the crime be committed by one of the employees of the legal entity and that the act occurred due to a breach of their duties.

Similarly, Law No. 1 of 2005 requires the person responsible for the actual management

[1] https://adlm.moj.gov.sa/alqadaeya/topic_d_d.aspx?ID=4&IDd=869

of the legal entity to have known about the crime and failed to take necessary measures to prevent it.

In contrast, the French legislator, according to Article 121-2 of the Penal Code, requires the crime to be committed by one of the legal entity's bodies or someone with the authority to represent it (Martin, 2020). It is noteworthy that international standards in this aspect are not clear. For example, Article 10(3) of the UNCTOC and Article 26(3) of the UNCAC state that liability can be extended to the persons who committed the offences. It seems that the conventions have adopted a broad approach that the French Penal Code adhered to, as neither convention has stipulated an official nexus between a legal entity and an individual who committed one of the crimes covered by the UNCTOC or UNCAC.

Based on the above, the Libyan legislator does not require the crime to be committed by the legal entity's representative or body. Consequently, the legal entity is responsible regardless of whether the perpetrator was a representative or an ordinary employee, provided that the crime was committed in the name and for the benefit of the legal entity.

While the default position is that someone authorized by law, such as a director or another individual specified in the legal entity's foundational documents, acts on its behalf, it is possible for another person, not legally authorized but who effectively acts in the entity's name, to commit the crime.

The same goes for acts that benefit a legal entity, but are not committed in its name, as indicated by the Libyan legislator's use of "or", which indicates equivalence and choice between what precedes and follows it.

Therefore, the Libyan legislator should require the crime to be committed by one of the legal entity's bodies, its legal representative, or its agent, similar to the French legislation. The Libyan Penal Code does not generally establish the criminal responsibility of legal entities, but this responsibility is defined in specific laws, including Law No. 2 of 2005.

The legislator specifies in this law the types of legal entities that can bear criminal responsibility for money laundering, defining them in Article 3 as economic, financial, and commercial establishments. In Law No. 1 of 2005, the legislator restricts the criminal responsibility of legal entities to banks only, whereas Article 48 of Law No. 5 of 2022 on Combating Cybercrimes (2022) does not specify the types of legal entities.

The expansion of the types of legal entities in which money laundering crimes can occur in Law No. 5 of 2022 is offset by the restriction of money laundering crimes that the legal entity can be held responsible for, limiting it to electronic money laundering operations only. Unlike Law No. 1 of 2005, Law No. 5 of 2022 on Combating Cybercrimes has complied with Article 11(1) of the ACCMLTF that requires States parties to adopt legislative measures to determine the liability of legal entities that are involved in the crimes of money laundering. In the ACCMLTF, legal entities are mentioned without any specification.

Article 121-2 of the French Penal Code does not specify types of legal entities responsible for money laundering, except for the state, noting that local and regional authorities are criminally responsible for crimes committed during activities involving public service delegation agreements (Martin, 2020). Article 1 of Law No. 2 of 2005 defines a financial establishment as "any bank, financing company, financial market, currency exchange office, financial or monetary intermediary, or any other establishment licensed to practice its activity by the central bank". Financial, commercial, and economic establishments are defined as establishments licensed to practice their activities by authorities other than the central bank, such as insurance companies, service offices, and others.

Therefore, we believe the Libyan legislator was not successful in limiting the criminal responsibility of legal entities in money laundering to economic, commercial, or financial institutions.

While money laundering often occur in these institutions, there is no reason they cannot also occur in other types of entities, such as sports clubs (Bull & Appermont, 2024) and according to estimates by the United Nations Office on Drugs and Crime, sports help launder approximately US$140 billion annually (Abrahamyan, 2023) also political parties (Kalvodová, 2015), non-profit associations (The Financial Action Task Force [FATF], 2015) that use their social activities as a cover for money laundering, such as orphan care associations, charitable organizations, cultural and social clubs, etc. (Sanjaya, 2023).

Libyan legislators have unjustifiably narrowed the scope of legal liability for money laundering. In fact, some legislations increase the penalties for the crime of money laundering if committed by certain types of legal persons, as is the case in Saudi legislation, which increases the penalty according to Article 27 of the Anti-Money Laundering Law if committed through a correctional, charitable, or educational institution or in a social service facility.

As well as Article 22 of Federal Decree-Law No. (26) of 2021 amending some provisions of Federal Decree-Law No. (20) of 2018 regarding combating money laundering crimes and combating the financing of terrorism and the financing of illegal organizations (2021), which increases the penalty if money laundering operations are carried out through a non-profit association. It is wise for the Libyan legislator not to limit the scope of criminal liability of legal persons in the crime of money laundering to certain types of legal persons, which enhances the fight against money laundering.

4.3. Sanctions imposed on legal entities in money laundering cases

It is stated in Article 11(1) of the UNCTOC and Article 30(1) of the UNCAC that States should take into account "the gravity of offences" when imposing sanctions on legal entities engaged in money laundering crimes. The UNCTOC and UNCAC also empower states parties to adopt "as be necessary" measures and to "the greatest extent possible within their domestic legal system" so that proceeds of crime and property, equipment, or other instrumentalities used in committing the offences identified in both conventions can be confiscated.

Clearly, these provisions have been drafted in a flexible language, allowing legislators a margin of discretion when it comes to adopting sanctions to address money laundering crimes committed by legal entities. Libyan legislators have imposed sanctions on legal entities involved in money laundering based on this broad discretionary authority, as will be noticed below.

4.3.1. Penalties for the person responsible for the actual management of the legal entity

The Libyan legislator does not penalize the person responsible for the actual management of the legal entity under Law No. 2 of 2005. However, Article 115 of Law No. 1 of 2005 punishes the person responsible for the actual management of the legal entity with the same penalty prescribed for the crime if it is proven that they were aware of it and did not take the necessary measures to prevent it. Nevertheless, this law does not combat money laundering crimes stated in Law No. 2 of 2005 but rather relates only to the breach of duties concerning the bank's submission of declarations and anti-money laundering procedures.

Regarding Law No. 5 of 2022, Article 48 punishes the person responsible for the actual management of the legal entity with imprisonment for not less than one year if any crime stipulated in this law is committed by one of its employees in its name and for its benefit if the crime occurred due to a breach of their job duties.

It is criticized that this law does not apply to all money laundering crimes but only to those conducted through electronic means. We believe that the differentiation in punitive treatment for the person responsible for the actual management of the legal entity in these laws lacks a logical justification, as these laws share the common goal of combating money laundering.

This necessitates the unification of rulings and punitive treatment, with the penalty being the same as that prescribed for the crime, especially given the weak penalties that the Libyan legislator imposes on the legal entity itself. This would enhance efforts to combat money laundering.

The French legislator, in Article 121-2 of the Penal Code, pursues a policy of punishing the legal entity itself as an entity with various penalties, without precluding the punishment of the natural person who committed the crime.

4.3.2. Penalties for the legal entity in money laundering

The Libyan legislator, under Law No. 2 of 2005, imposes a relative fine on the legal entity of up to twice the amount of the money involved in the crime. However, the Libyan legislator, under Law No. 5 of 2022, does not impose fines on legal entities for money laundering crimes. The French legislator is more stringent in imposing fines on legal entities, which may reach five times the fine imposed on a natural person for the same crime. If the crime is not punishable by a fine, the fine on the legal entity may reach one million euros (Rozès, 2012).

It can be said that the Libyan legislator was right to impose fines, as fines are considered significant and important penalties in financial crimes (Kurz et al., 2014), such as money laundering (Lord & Levi, 2023). It is an easy-to-apply penalty and an important source of state revenue and covering state expenses (Quilter & Hogg, 2018). However, it has been criticized that the fine imposed by the Libyan legislator is insufficient and not commensurate with the seriousness of the legal person's involvement in money laundering, indicating the severity of the crime and the harm it causes when compared to the crime committed by an individual (Jansons, 2024). It is known that there must be proportionality between the seriousness of the crime and its consequences, with the punishment to achieve the intended deterrence (Kalyagin, 2024).

The decision to commit the crime is made after considering the penalty's severity compared to the benefits derived from the crime (Iglesias et al., 2012). For this reason, it is unreasonable for the fine for a legal entity involved in money laundering to be the same as the fine for an Individual committing the same crime, Thus, the Libyan legislator should have imposed stricter fines on legal entities, similar to the French legislation, or based on a certain percentage of the legal entity's profits in the year the crime was committed or the preceding year, whichever is greater. This would undoubtedly enhance the effectiveness of the provisions in combating money laundering.

Logically, fines for legal entities should be more severe than fines for an individual, given the special nature of legal entities and the fact that fines are among the most effective penalties imposed on them (Kalvodová, 2013).

Finally, it is criticized that the Libyan legislator does not impose fines on legal entities under Law No. 5 of 2022. It is known that committing crimes using electronic means increases their severity and amplifies their harmful effects, making them easier to commit and expanding their scope given the large number of the internet (Li & Liu, 2021). This necessitates stricter penalties rather than lighter ones compared to crimes committed through traditional means.

According to Law No. 2 of 2005, the Libyan legislator stipulates that the legal entity may be confiscated of money without explicitly specifying whether the confiscation refers to all assets of the entity or only some, or whether it refers to the money involved in the crime or other assets. However, Law No. 5 of 2022 on Combating Cybercrimes (2022) states that the confiscation of the proceeds from the crime while considering the rights of bona fide third parties. In contrast, the French legislator, under Article 324-9 of the Penal Code (1954), allows for the confiscation of all or part of the legal entity's assets, or their division, while considering the rights of the bona fide owner, regardless of their nature, whether movable, immovable, or undivided (Quisse, 2009).

We believe that the money subject to confiscation under the aforementioned Article 4 of Law No. 2 of 2005 refers to the money involved in the crime only, as inferred from the article's wording, which states: "The establishment in whose name or on whose behalf the crime is committed shall be punished with a fine equal to twice the money involved in the crime, with the confiscation of the money..." Considering that confiscation, according to general rules in Libyan legislation, is always a financial measure and not a punishment, as per Article 159 of the Penal Code (1954), it means it applies to items whose possession is a crime, or items it means it applies to items whose possession is a crime, or items used in the crime, among other things related to the crime. Confiscation is thus used to combat the motives of criminals to commit financial crimes and the desire to obtain wealth and profit (Körtl & Chbib, 2024).

Therefore, confiscation cannot apply to the legal entity's assets unrelated to the crime, as they are not subject to confiscation as a measure but require the legislator to impose them as a punishment. There is no punishment without a legal text (Dagan & Zimran, 2023). The French legislator's approach of expanding the scope of confiscation to include not just the money involved in the crime (Saumagne, 2021) is commendable, as it enhances the fight against money laundering that can occur through legal entities and prevents the use of their assets in committing other crimes (Nazzari & Riccardi, 2024).

In French legislation, confiscation can apply to the legal entity without a requirement for the money being confiscated to be linked to the committed crime, even if the confiscated properties are of illicit origin, and it does not matter whether these assets were acquired before or after the crime was committed (Judgment No. 21-86.002, 2022).

4.3.3. Closure of the establishment and revocation of the license

Law No. 2 of 2005 stipulates the penalty of license revocation and closure of the establishment in case of recidivism. In contrast, Law No. 5 of 2022 does not include this penalty. The French legislator imposes permanent or temporary closure for up to five years of one or more of the company's branches or establishments used in committing the crime. From the above, it is understood that the French legislator addresses the situation where the project consists of a group of companies and the crime is committed by one of them; thus, the penalty applies to the specific company without affecting the other companies within the project (Cressent, 2024).

In contrast, the Libyan legislator does not provide for this situation, and the penalty applies to the establishment or institution as a single entity. Additionally, unlike the French legislator, the Libyan legislator imposes the closure penalty only in cases of recidivism, without applying it in other circumstances.

Legislators in Libya take an unjustified position regarding the penalty of closure. Serious money laundering activities may be committed by an establishment or legal entity, necessitating closure even without recidivism, such as when the purpose of establishing the legal entity is to launder money contrary to its declared purpose.

There should be a variety of closure penalties, both permanent and temporary, considering that diversity and multiplicity in penalties align with the principle of individualized punishment, ensuring that the penalty matches the severity and danger of the act, allowing the judge to choose the appropriate penalty for the legal entity (Clear et al., 1978). The severity of the penalty should be determined based on the severity of the criminal act and the harm it may cause, rather than on the recurrence of the act or recidivism.

Based on the previous understanding, the Libyan legislator imposes the death penalty and life imprisonment on natural persons, which corresponds to the penalties of closure, dissolution, or license revocation for legal entities, based on the severity of the act rather than the recurrence of the crime.

4.3.4. Dissolution of the legal entity

Dissolution is one of the most significant and severe penalties for a legal entity (Grossman, 2016). The Libyan legislator did not stipulate the penalty of dissolution for the legal entity in money laundering under Law No. 2 of 2005. However, it is included in Law No. 5 of 2022, which is criticized for requiring proof that the actual purpose of establishing the legal entity was to commit a crime, restricting its application in other cases.

This imposes an unjustified limitation on the scope of applying the dissolution penalty, considering the practical difficulties in proving this purpose and limiting the application of this penalty to money laundering crimes committed through electronic means only.

In contrast, the French legislator imposes the dissolution penalty on the legal entity for money laundering when the crime is a felony or a misdemeanor punishable by imprisonment for three years or more for a natural person or when the legal entity is used for purposes other than its lawful purposes in committing a crime (Martin, 2020). This penalty does not apply to public legal entities that may bear criminal responsibility, nor to political parties, groups, trade unions, or institutions representing employees (Rozès, 2012).

While the Libyan legislator did not explicitly stipulate the dissolution penalty, the closure penalty, accompanied by the revocation of the establishment's license, effectively serves as dissolution, especially since the Libyan legislator uses the term "closure of the establishment" without specifying a duration, implying permanent dissolution of the legal entity. Nevertheless, we urge the Libyan legislator to explicitly stipulate the dissolution penalty for legal entities in money laundering cases.

4.3.5. Publication of the conviction

The penalty of publishing the conviction is significant because it affects the reputation and standing of the convicted entity with its clients. The importance of this penalty is evident, as a legal entity relies on its reputation to expand its customer base and commercial activities (Iacobucci, 2014).

Therefore, publication may result in the loss of clients, hinder expansion, and potentially weaken or terminate the entity's existence. The Libyan legislator did not stipulate the publication of the conviction for legal entities involved in money laundering under Law No. 2 of 2005 or Law No. 5 of 2022. However, the French legislator included this penalty in Article 324-9 of the Penal Code, referring to the penalties for legal entities outlined in Article 131-39 of the Penal Code (Martin, 2020; Rozès, 2012).

In addition to the above, and unlike the French legislator, the Libyan legislator did not stipulate other important sanctions for legal entities, such as prohibiting the practice of activity, internal control, prohibiting the issuance of checks, prohibiting subscription, and prohibiting the receipt of cash and in-kind assistance from various parties, which is what the French legislator stipulated in Article 131-39 of the Penal Code.

5. CONCLUSION

The study emphasized the importance of strengthening the legal framework governing the liability of legal entities for money laundering crimes in Libyan legislation, particularly given the limited scope of liability and the weakness of current penalties.

The findings revealed that Libyan law, unlike French law, international standards, and some Arab legislation, restricts the criminal liability of legal entities for money laundering crimes to financial and banking institutions only, excluding other legal entities.

The study also indicated that the current penalties in Libyan law do not provide sufficient deterrence, as they are limited to fines, closure, or license revocation in cases of repeated offenses.

Furthermore, a legal entity is only dissolved if the prosecution proves that its purpose was to commit a crime, which is difficult to prove in practice and thus limits the effectiveness of the law.

Additionally, Law No. 5 of 2022 on Combating Cybercrimes addresses only money laundering through electronic means, neglecting other forms stipulated in Law No. 2 of 2005, resulting in an unjustified fragmentation of the legislative framework.

Furthermore, Law No. 5 of 2022 addresses only money laundering through electronic means, excluding other forms stipulated in Law No. 2 of 2005, leading to an unjustified fragmentation of the legislative framework. The study recommends expanding the scope of criminal liability for money laundering to include all legal entities, including political parties, unions, sports and social clubs, and non-profit organizations, whenever the crime is committed by an official representative or administrative body of the legal entity and on its behalf.

Furthermore, the study recommends increasing penalties by raising fines and linking them to a percentage of profits earned and expanding the scope of confiscation to include all funds and proceeds associated with the crime.

The practical implications of these findings are that adopting these reforms will, in our view, enhance the effectiveness of the Libyan legal system in combating money laundering and align Libyan law with international standards and modern trends in combating financial crimes.

However, the study's scope is limited by its focus on comparative analysis of legal texts without delving into practical or statistical aspects. This could be considered an area for future research that examines the effectiveness of implementing the proposed legal rules in practice and their efficacy in combating money laundering.

In our view, this study contributes to enriching the scientific legal debate on reforming Libyan legislation and provides a practical vision that can benefit lawmakers and decision-makers, as well as researchers interested in developing criminal justice in Libya.

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