

## THE CRIME OF MONEY LAUNDERING IN THE CONTEXT OF THE EXTRATERRITORIAL REGIME PROVIDED FOR IN ART. 243 PARA. (4) OF THE CRIMINAL CODE OF THE REPUBLIC OF MOLDOVA

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**Abstract:** This paper examines money laundering with emphasis on the extraterritorial regime established by art. 243 para. (4) of the Criminal Code of the Republic of Moldova. Against the backdrop of intensifying cross-border financial crime, the national framework seeks to extend criminal jurisdiction to prevent impunity and strengthen anti-money laundering measures.

The study compares domestic provisions with international instruments, including Directive (EU) 2018/1673, the UN Convention against Transnational Organized Crime, and the Council of Europe Warsaw Convention on laundering, confiscation, and terrorist financing. The objective is to assess whether the Moldovan regime adequately addresses transnational laundering schemes while ensuring compliance with international standards.

Methodologically, the research combines doctrinal and comparative analysis of UNCAC, the Warsaw Convention, and EU Directive 2018/1673 with a detailed review of art. 11 and 243 of the Moldovan Criminal Code. A case study further tests theory against practice.

Findings show broad alignment with UNCAC and the Warsaw Convention, and functional convergence with EU norms, despite Moldova’s non-member status. Nonetheless, gaps remain: uneven international assistance, uncertainties on predicate offences across jurisdictions, and risks of parallel proceedings. To mitigate such conflicts, the paper proposes a prioritization framework based on seriousness of effects, evidence location, and victim nationality. It also recommends clarifying legislative terms, enhancing asset recovery mechanisms, and integrating *non bis in idem* safeguards.

The study concludes that art. 243 para. (4) is a proportionate instrument against transnational laundering, provided it is supported by robust cooperation and uniform interpretation. The proposals advance practical guidance for applying extraterritorial jurisdiction and increasing coherence, predictability, and efficiency in Moldova’s anti-money laundering framework.

**Keywords:** money laundering, extraterritorial jurisdiction, financial crime, international cooperation, transnational organized crime, criminal law.

**JEL Classification:** K14, K42, F55

### 1. Introduction

The globalization of the economy and the intensification of financial ties between states have amplified the risks associated with economic crime, in particular the phenomenon of money laundering, which constitutes a significant threat to both international financial security and domestic public order. These illicit activities facilitate the integration of funds from illegal sources

into the legal economic circuit, generating market distortions, fueling criminal networks and eroding public trust in state institutions (Money laundering continues to pose global risks (United Nations Office on Drugs and Crime, 2023).

The Republic of Moldova, as part of the European and international legal community, has assumed the responsibility to adapt its legislation to global requirements in the field of combating money laundering. Article 243 of the Criminal Code regulates this offense, and paragraph (4) introduces a particular dimension – the extraterritorial regime of criminal liability, allowing for the sanctioning of individuals even when the offense, in whole or in part, occurred outside the national territory. This provision is essential to avoid impunity in situations where illegal funds circulate through several jurisdictions.

In a reality where criminals exploit legislative differences between states, resort to tax havens and opaque financial structures, rules with extraterritorial applicability are indispensable tools in combating international financial crime. However, their application requires a clear regulatory framework, solid procedural guarantees and efficient cooperation mechanisms between the authorities of the states involved.

## **2. The general normative and doctrinal framework regarding money laundering**

Money laundering is the process of disguising the illegal origin of assets or funds, with the aim of introducing them into the formal economy under the guise of legality. According to internationally recognized definitions, it involves the transformation or transfer of assets, accompanied by the intention to hide the criminal origin and to assist the persons involved in avoiding legal consequences (Financial Action Task Force, 2023).

The main features of this crime can be summarized as follows:

- dependence on the existence of a primary crime (predicate crime) that generates illicit income and constitutes the source of the assets subject to the "laundering" process;

- the central objective of concealing or disguising the true origin, location, possession or rights of assets obtained from criminal activities;

- the pronounced transnational nature, often involving complex financial structures and transactions carried out in multiple jurisdictions;

- high flexibility, which allows the method to be applied in multiple criminal contexts – from corruption and drug trafficking to tax fraud.

Article 243 of the Criminal Code of the Republic of Moldova, introduced by Law No. 985-XV of April 18, 2002 and subsequently amended to comply with international requirements (Law No. 308/2017; Law No. 145/2020), currently criminalizes:

- conversion, transfer, possession or use of proceeds of crime;

- concealing or disguising their nature or origin.

Paragraph (4) of the same article expressly enshrines the extraterritorial regime, establishing that criminal liability may also be incurred in situations where the action or part of it was committed outside the national territory, if the assets obtained from the crime are used in the Republic of Moldova or produce effects on it.

This regulation is aligned with international standards, in particular the recommendations of the Financial Action Task Force (FATF), MONEYVAL assessments and European directives in the field.

The crime of money laundering is related or subsequent to other criminal acts, being closely linked to the existence of a predicate crime, such as:

- corruption (art. 324, 325 of the Criminal Code of the Republic of Moldova) – cases in which the bribe received is subsequently "laundered";

- drug or human trafficking (art. 217<sup>1</sup>, 165 CP RM) – illicit income is reinvested through apparently legitimate mechanisms;

tax evasion (art. 244 of the Criminal Code of the Republic of Moldova) – the amounts obtained by hiding income are subsequently integrated into the formal economic circuit.

Through this interdependence, money laundering acts as a factor in strengthening organized crime. Failure to investigate and punish this crime contributes to the strengthening of criminal networks and seriously affects the effectiveness of the rule of law (Transparency International, 2022).

### **3. The extraterritorial regime of the crime provided for in art. 243 para. (4) of the Criminal Code of the Republic of Moldova**

Article 243 paragraph (4) of the Criminal Code of the Republic of Moldova provides that: *“Illicit actions also constitute acts committed outside the territory of the country if they contain the constitutive elements of a crime in the state in which they were committed and may constitute the constitutive elements of a crime committed on the territory of the Republic of Moldova.”*

This provision establishes a form of *conditional extraterritorial criminal jurisdiction*, whereby Moldovan criminal law can be applied to acts committed outside the borders, when there is a relevant legal connection with the national territory. The connection can result either from the use of the proceeds of crime in the Republic of Moldova, or from the production of direct effects on it.

In doctrine, the extraterritorial regime represents the extension of criminal legislative competence beyond the geographical limits of the state, being based on principles such as universal, personal (active or passive) or protectionist jurisdiction (Savu, 2018). In the field of money laundering, this approach is justified by:

- the transnational nature of operations;
- the rapid and global circulation of illegally obtained capital and goods;
- the need to eliminate zones of impunity generated by the non-uniformity of national criminal legislation.

Thus, the state reserves the right to sanction criminal actions carried out abroad, but which produce legal, economic or social consequences on its territory.

The application of the provisions of art. 243 paragraph (4) is conditional on the existence of one of the following connecting elements:

- the use on the territory of the Republic of Moldova of the assets resulting from the crime (e.g.: investments in real estate, local businesses or deposits in domestic bank accounts);

- producing effects in the Republic of Moldova (e.g.: damage caused to individuals or institutions in the state);

- the concrete possibility of producing effects on the national territory, even if they have not materialized.

These criteria reflect the application of the principle of protection of the fundamental interests of the state, enshrined in Art. 11 paragraph (3) of the Criminal Code of the Republic of Moldova.

According to Art. 11 of the Criminal Code of the Republic of Moldova, the general framework for the application of criminal law depending on the place of commission of the crime is based on two essential rules (The extraterritorial application of criminal law is expressly regulated (Republic of Moldova, 2002)):

- paragraph (1) establishes the principle of territoriality – *“any crime committed on the territory of the Republic of Moldova falls under the jurisdiction of the national criminal law, regardless of the nationality of the perpetrator”*;

- paragraph (3) introduces an important exception – *“foreign citizens and stateless persons may be held liable in the Republic of Moldova for acts committed abroad if they are directed against the interests of the state, against the rights of Moldovan citizens or stateless persons with permanent residence in the country, against legal entities registered in the Republic of Moldova,*

*against international peace and security, or if they fall within the category of crimes provided for by international treaties to which the Republic of Moldova is a party, provided that there is no final court decision in the state where they were committed”* .

This norm encompasses the principles of active personality, passive personality and protection, constituting the legal foundation for the extension of criminal jurisdiction across borders.

In this context, art. 243 para. (4) represents a concrete application of the exception provided for in art. 11 para. (3), being adapted to the specifics of a crime with a pronounced transnational character. The norm is based on *the principle of effect*, recognized by international criminal law, according to which a state may exercise jurisdiction over an act committed outside its territory if it produces relevant consequences domestically.

In terms of money laundering, the mere use of the proceeds of crime in the territory of the Republic of Moldova – or the real possibility of producing effects there – is sufficient to trigger the application of national criminal law. This solution is in line with the recommendations of the International Financial Action Task Force (Financial Action Task Force, 2023), and with the provisions of the UN Convention against Transnational Organized Crime, which requires states to establish effective legislative mechanisms to sanction acts with a cross-border dimension (United Nations, 2004).

Through this regulation, the Moldovan legislator strengthens the capacity of the legal system to react against the phenomena of globalized financial crime, while maintaining compatibility with the fundamental principles of international criminal law and avoiding conflicts of jurisdiction.

#### **4. Compatibility of the extraterritorial regime with international norms**

The analysis of the extraterritorial regime provided for in art. 243 para. (4) of the Criminal Code of the Republic of Moldova cannot be limited to the perspective of domestic law, but must also be related to the international commitments assumed by the state. In the field of combating money laundering, the efficiency of criminal intervention directly depends on the degree of legislative harmonization with international standards and the functionality of cross-border cooperation mechanisms.

##### **4.1. Relevant international instruments**

A fundamental landmark in this area is the United Nations Convention against Transnational Organized Crime, According to the United Nations (2004), the Palermo Convention plays a central role in international criminal law, ratified by the Republic of Moldova. According to art. 6, States Parties have the obligation to criminalize money laundering and to ensure the legal framework for criminal liability in cross-border cases, including when the proceeds of crime are transferred, hidden or used in jurisdictions other than the one in which the predicate offense was committed.

Also, the Council of Europe Convention on the laundering, detection, seizure and confiscation of the proceeds of crime and the financing of terrorism imposes on states the obligation to extend the application of criminal law to acts committed outside the national territory, when they affect public order, the integrity of the financial system or economic security (Council of Europe, 2005).

At the European Union level, Directive (EU) 2018/1673 on combating money laundering by criminal law constitutes a reference standard, even if the Republic of Moldova is not a Member State (The EU Directive aligns criminal law with AML standards (European Union, 2018). Art. 7 of the directive expressly recommends the extension of criminal jurisdiction to acts committed abroad, especially when the perpetrator is a citizen of the respective state or the act produces effects on its territory. This orientation is relevant in the context of the commitments assumed by the Republic of Moldova through the Association Agreement with the EU, which aims at the progressive approximation of national legislation to the community acquis.

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Thus, the provisions of Art. 243 paragraph (4) of the Criminal Code of the Republic of Moldova align with the international trend of expanding criminal jurisdiction in money laundering cases, reflecting both the recommendations of the UN and the Council of Europe, as well as European standards in the field.

**4.2. The principle of mutual recognition and judicial cooperation**

In the European legal space, the principle of mutual recognition of criminal judgments functions as an essential mechanism for the efficiency of transnational criminal justice, reducing the need for complex validation procedures. The application of the extraterritorial regime provided for in art. 243 para. (4) is complementary to these mechanisms and involves:

- extradition of the perpetrators;
- recognition and enforcement of foreign criminal judgments;
- obtaining evidence located in other jurisdictions;
- mutual assistance for the identification, seizure and confiscation of assets derived from crimes.

A reference legal framework in this regard is the European Convention on Mutual Assistance in Criminal Matters, which regulates procedures for the exchange of evidence, the hearing of witnesses and the execution of letters rogatory (Mutual legal assistance is governed by the 1959 European Convention, Council of Europe, 1959). The UN Convention against Corruption also provides clear obligations regarding the extension of criminal jurisdiction and cooperation in identifying and recovering assets derived from crimes, including when they are located abroad (United Nations, 2003).

In order to assess the coherence and efficiency of the extraterritorial regime provided for in art. 243 par. (4) of the Criminal Code of the Republic of Moldova, it is necessary to analyze it in correlation with the main international instruments applicable in the field of combating money laundering. Such a comparison highlights the degree of harmonization of national legislation with international standards, identifying both elements of convergence and possible gaps.

To this end, Table 1 summarizes the essential correspondences between the provisions of the Criminal Code of the Republic of Moldova and the provisions of the European Convention on Mutual Assistance in Criminal Matters and the United Nations Convention against Corruption. The analysis focuses on the criteria for extending criminal jurisdiction, the applicability of the rules to crimes with cross-border elements, international cooperation mechanisms, the recognition of predicate offenses and measures regarding the seizure and confiscation of assets.

This comparative approach allows identifying how Moldovan legislation aligns with global and European trends, ensuring a regulatory framework capable of effectively responding to the challenges generated by transnational financial crime.

**Tabel.1 Extraterritorial money laundering regime – National norms vs. international provisions**

<b>Analyzed aspect</b>	<b>Criminal Code of the Republic of Moldova</b>	<b>European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 1959)</b>	<b>UN Convention against Corruption (UNCAC, 2003)</b>
<b>Extension of criminal jurisdiction beyond national territory</b>	Art. 11 paragraph (3) of the Criminal Code of the Republic of Moldova authorizes the application of criminal law to acts committed outside the Republic of Moldova, when	The Convention facilitates cooperation between states for criminal investigations, regardless of the place where the crime was committed, through	Art. 42 UNCAC allows states to extend their jurisdiction over crimes involving their own citizens or national economic interests.

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	they affect the interests of the state, its citizens or legal entities registered in the Republic of Moldova.	letters rogatory and the exchange of information.	
<b>Application of criminal norms to money laundering with external elements</b>	Art. 243 paragraph (4) provides for criminal liability for acts committed partially or entirely outside the Republic of Moldova, if there are effects or connections with the national territory.	It does not directly criminalize money laundering, but provides mechanisms for obtaining evidence and assistance in cases with a cross-border component.	It recognizes money laundering as a transnational crime (art. 23) and calls for its criminalization including for activities carried out abroad.
<b>International cooperation</b>	It is achieved through bilateral and multilateral treaties, as well as participation in international bodies.	It obliges signatory states to respond to requests for mutual legal assistance (arts. 1–15).	Chapter IV (art. 43 - 50) provides for instruments of international cooperation, including extradition, exchange of information and joint investigations.
<b>Recognition of the predicate offense</b>	It is not expressly defined, but is deduced from the constitutive elements of the crime of money laundering.	It does not contain direct regulations on predicate offenses.	It provides for the recognition of acts of corruption and other crimes as possible sources of money laundering (art. 23).
<b>Seizure and confiscation of assets derived from crimes</b>	Permitted by domestic legislation and concluded international agreements.	It allows the request for provisional and confiscatory measures between states.	Articles 31 and 54 establish measures for the seizure, freezing and confiscation of assets at the international level.

**4.3. Possible conflicts of jurisdiction and solutions**

The extension of the applicability of the criminal law of the Republic of Moldova to acts committed outside the national territory may, in certain situations, lead to conflicts of jurisdiction. Such situations may arise in particular when:

- two or more states are conducting parallel investigations into the same criminal act;
- there are differences between legislations regarding the definition or legal qualification of the crime;

In the state where the act occurred, money laundering is not criminalized or is sanctioned differently.

Managing these conflicts can be achieved through:

- the conclusion and application of bilateral agreements or multilateral treaties relating to extradition and international judicial cooperation;

- the use of *the principle of specialty* in extradition matters, which provides that the surrendered person can only be tried for the crime for which he was extradited;

- recourse to international coordination mechanisms, such as *Eurojust* or regional cooperation networks specialized in combating money laundering;

- establishing clear criteria for priority of jurisdiction, taking into account factors such as: the extent and seriousness of the effects, the nationality or residence of the victim, the location of the evidence or illegally obtained assets.

Under these conditions, the extraterritorial regime provided for by art. 243 paragraph (4) of the Criminal Code of the Republic of Moldova proves to be harmonized with the main international conventions and relevant European standards. Its application strengthens the mechanisms of international judicial cooperation, reduces the chances of impunity and protects the stability and integrity of the national financial system, while respecting the sovereignty of other states and the essential principles of international criminal law.

### **5. Conclusions**

The study of the legal regime of the crime of money laundering, with a focus on the provisions of art. 243 paragraph (4) Criminal Code of the Republic of Moldova, reveals a legislative process aimed at adapting criminal norms to the realities of the transnational criminal phenomenon. The extraterritorial dimension introduced by this article provides a necessary legislative response to the challenges of globalized economic crime, overcoming the traditional limits of the territoriality principle and reducing the risk of impunity in cases with external elements.

The impact of this mechanism is all the more pronounced as its efficiency directly depends on the existence of solid international judicial cooperation and the clarity of domestic procedures. Harmonization of legislation with the standards of the state where the act was committed is a crucial factor, given that the damage is not always generated in the state where the crime began or transited, and perpetrators exploit differences and legislative gaps.

A telling example of this is the case known as the “Russian Laundromat”, which took place between 2010 and 2014. According to court documents and official information, approximately USD 20 billion was transferred from the Russian Federation to foreign jurisdictions, using the banking system and courts of the Republic of Moldova and Latvia (Organized Crime and Corruption Reporting Project, 2014). The scheme involved issuing court judgments in the Republic of Moldova based on fictitious loan agreements, through which Russian companies were obliged to “return” considerable amounts to offshore entities (Organized Crime and Corruption Reporting Project, 2014).

This case attracted the attention of international organizations such as *MONEYVAL* and *Transparency International*, generating pressure to strengthen the regulatory framework and international cooperation mechanisms (Global Witness, 2015). Following the investigations, *the Service for the Prevention and Combating of Money Laundering* intensified the monitoring of suspicious transactions and introduced additional internal procedures. At the same time, several judges from the Republic of Moldova were accused of involvement in the illicit financial circuit, being provisionally detained, and later released due to alleged procedural irregularities in the application of preventive measures and the norms regarding the criminalization provided for in art. 243 of the Criminal Code of the Republic of Moldova. The Service for the Prevention and Combating of Money Laundering (2018) reported increased efforts to fight illicit financial flows.

In this context, international cooperation is indispensable not only for the identification and recovery of illicit assets, but also for guaranteeing compliance with the principle of *non bis in idem*, enshrined in Article 4 of Protocol No. 7 to the European Convention on Human Rights (Protocol No. 7 establishes important provisions regarding human rights (Council of Europe, 1984)). This principle prohibits the same person from being tried or punished twice for the same act and requires effective coordination between the judicial authorities of the states involved, in order to prevent parallel proceedings and contradictory solutions (Pântea and Ceban, 2022).

The “Landromat” case highlighted the essential role of the mechanisms provided for in the European Convention on Mutual Assistance in Criminal Matters (Council of Europe, 1959) and the UN Convention against Corruption (United Nations, 2003), which facilitate the exchange of information, the obtaining of evidence and the mutual recognition of decisions. Thus, ensuring

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*September 26-27, 2025*  
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compliance with the *non bis in idem principle* and streamlining cross-border investigations remain strategic objectives in the fight against money laundering and organized financial crime.

By continuing to align the legislative framework with international requirements and by strengthening institutional capacities, the Republic of Moldova can consolidate its position in the fight against financial crime. To this end, it is necessary to clarify legal terminology, standardize jurisprudence and strengthen international cooperation, for a coherent and efficient application of the extraterritorial regime provided for in art. 243 para. (4) of the Criminal Code of the Republic of Moldova.

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