

2. International legal framework and national implementation

In this thesis, the terms “tax fraud” and “tax evasion” are used to designate criminal behaviour (or at least administratively sanctioned behaviour), while “tax avoidance” is the term used to designate legal behaviour aiming at reducing taxes due. The term tax fraud is used when referring to the category of tax crime with the heavier sanctions, and the term tax evasion is used when referring to the lesser strictly sanctioned tax crime.

2.1 International legal framework

When looking at the topic of AML/CFT, the global standard is set by the FATF recommendations. Additionally, there are a number of international conventions having secondary effects on AML/CFT, like the United Nations Convention against Transnational Organised Crime of November 15, 2000 (CTOC, not signed by the EU) or the Council of Europe’s Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of May 1, 2005 (signed but not ratified by the EU).

In the EU, the FATF recommendations are implemented through a directive, while the international conventions are implemented nationally by those member states of the EU who have signed and ratified the international conventions. EU directives are not applicable directly as national law, but have to be implemented through national statutory acts.

This thesis concentrates on the FATF recommendations, the EU directive and the national legislations. The FATF recommendations are used by judges worldwide when they have to interpret their national AML/CFT-legislation, while the EU directive is the major reference when judges in the European Economic Area (EEA) have to interpret their national AML/CFT Act.