

Anti-money Laundering regulation in Norway vs The Netherlands

Through Twitter it came to my attention that in Norway there is a discussion ongoing about the scope of the reporting duties of lawyers versus the legal confidentiality. I read (through Google translate) the articles of Jeppe Norman and Nina Smidt on your website.

In close cooperation with Suzanne Hendrickx, attorney at law and working for the Hague Bar Association, I teach on anti-money laundering regulations for lawyers, accountants, notaries, real estate agents and tax advisors in the Netherlands. I gladly share our experiences in the Netherlands with you.

The tension between reporting and confidentiality is, of course, an issue in our jurisdiction. Our national anti-money laundering law, the Wwft (Wet ter Voorkoming van Witwassen en financiering van Terrorisme), starts with the question if the Wwft with its client due diligence (CDD/KYC) and reporting duties applies. All litigation, going to court, advising to avoid a formal procedure, advising after a formal procedure does not fall under the Wwft. In other words, when the lawyer performs classical lawyer duties, the Wwft does not apply. The Wwft also does not apply on the first meeting between a lawyer and a (potential) client. The idea behind this, is that an individual must be free to consult a professional (the same rule applies to accountants, fiscalists and notaries) without having to fear that he will be reported to the FIU (financial intelligence unit) of the Ministry of Finance. And also that the lawyer can distract the individual from his bad intentions.

The Wwft does apply however when a lawyer performs duties specifically mentioned in the text of the Wwft; in the case a lawyer independently gives advice on transactions:

- Buying and selling real estate
- Managing money, coins, precious metals, - stones or other valuables
- Establishing or managing companies and legal entities
- Selling or buying of shares in companies, or taking over companies, merger and acquisitions
- Performing duties comparable to tax advisors or accountants
- Acting as a middle man or representative in financial or real estate transactions

... the Wwft does apply!

Outside of this scope, the lawyer is bound to secrecy and legal privilege. A violation of secrecy is a criminal act. In practice, it is often difficult to determine the exact boundaries between Wwft and non-Wwft cases. That's why the Bar association has set up a knowledge centre Wwft (Kenniscentrum Wwft) at the Bar of The Hague. Lawyers can ask for confidential advice on anti-money laundering issues.

We have 18000 practicing lawyers in the Netherlands. The number of AML-reports is about 10 a year.

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