German Law Journal (2023), pp. 1–13
doi:10.1017/glj.2023.50

CAMBRIDGE UNIVERSITY PRESS

ARTICLE

Reporting Obligations for Attorneys in Money Laundering Cases: Attorney-Client Privilege Under Pressure?

Robin Hofmann[1] and Livio Lustenberger[2]

[1]Maastricht University, Maastricht, Netherlands and [2]MLL Legal, Zurich, Switzerland
Corresponding author: Robin Hofmann; Email: robin.hofmann@maastrichtuniversity.nl

(Received 18 February 2022; accepted 22 September 2022)

Abstract
With the publication of the Panama Papers in 2016, law firms and attorneys came under the spotlight of international anti-money laundering efforts. It became clear that attorneys, protected by the attorney-client privilege, play a significant role in concealing the origin of illicit funds and the constructing of offshore company-schemes. The public outcry prompted legislators to hold these facilitators accountable and to prevent money-laundering activities by imposing reporting obligation on them, whenever there is the suspicion of a client being involved in illicit activities. Unsurprisingly, attorney and professional associations voiced considerable opposition to these legislative efforts claiming an erosion of the attorney client privilege and nothing less than an attack on the rule of law. This article examines the attorney-client privilege from a historical, empirical, and constitutional perspective. A brief analysis of the legal frameworks in Germany and Switzerland exemplifies how reporting obligations affect legal practice and what challenges exist for attorneys. Both countries are considered global hubs for money laundering activities. The legal concepts of holding attorneys accountable in the neighboring countries differ in some respects. In conclusion, it shows that the legal professions successfully managed to widely avoid a 'responsibilization'.

Keywords: Attorney client privilege; Panama Papers; Money Laundering; Switzerland; Germany

A. Introduction

"Crime pays." This slogan is in many respects a cliché. "Crime pays for others as well" would be a more precise rendition. This is particularly true when it comes to money laundering, a key crime facilitating a variety of serious and organized crimes. Money laundering pays not only for the criminal perpetrators, but for the many different people involved to make the operation possible. This includes attorneys, public notaries, real estate agents, bankers, and the corrupted public officials and politicians that are willing to look the other way.[1] These dynamics were impressively uncovered by the widely popular book, The Panama Papers, published in 2016 and followed by The Paradise and The Pandoras Papers.[2] The public outcry after the publishing was enormous. Politicians quickly promised to implement changes to eradicate global money laundering

[1]Hans Nelen & Wim Huisman, *Breaking the Power of Organized Crime? The Administrative Approach in Amsterdam*, *in* ORGANIZED CRIME: CULTURE, MARKETS AND POLICIES 207 (Dina Siegel & Hans Nelen eds., 2008).

[2]BASTIAN OBERMAYER & FREDERIK OBERMAIER, THE PANAMA PAPERS (2016); PAULO Z. MONTALBAN, PARADISE PAPERS: OFFSHORE INVESTMENT OF THE RICH AND POWERFUL (2017); LAWERENCE DAVIS, PANDORA PAPERS (2021).

schemes. However, while investigations were launched against thousands of individuals and in numerous countries, the impact on the justice system has been moderate at best. Nevertheless, it is one of the many merits of the books that they have drawn attention not only to the launderers from organized criminals to politicians, but also to the professions that make these schemes possible in the first place: Attorneys and law firms, above all.

Attorneys play a fundamental role for our rule of law and criminal justice systems, on the same level as judges and prosecutors. The German Constitutional Court speaks of the duty of attorneys to create equality of arms and opportunities (Waffengleichheit und Chancengleichheit) between citizens and a powerful state.[3] To fulfill that task effectively, attorneys are "armed" with numerous privileges distinguishing them from other professions. The most important of these privileges is the attorney-client privilege. It protects confidential communication between the attorney and the client, from disclosure to third parties, including state authorities. Although mostly common in common law systems, many other legal systems governed by the rule of law know some equivalent to this privilege. It is considered paramount to create the level of trust between attorney and client for giving legal advice, and ultimately, for an effective defense in criminal court.

In recent years, however, the attorney-client privilege seems to have come under pressure. This has to do with the fight against money laundering which has become a priority within the European Union. "Flows of illicit money can damage the integrity, stability, and reputation of the financial sector, and threaten the internal market of the Union as well as international development."[4] The first paragraph of the EU directive against money laundering adopted by the European Parliament and the European Council demonstrates drastically how big of a problem money laundering is: It is considered no less than a threat to international development. In consequence, the directive entails different instruments in the global fight against this type of crime including reporting obligations for attorneys. Under certain circumstances legal professionals are obliged to report a client to the authorities in order to avoid criminal liability themselves.[5] While the directive also clearly exempts legal advice and information obtained in relation to judicial proceedings, it still remains strange how little of a controversy this creeping softening of the legal institution has triggered from commentators and practitioners. It begs the question, if and how at all these reporting obligations are compatible with the professional secrecy protected by the attorney-client privilege? Do reporting obligations jeopardize the trustworthy relationship between attorney and clients and potentially erode the privileged position of attorneys within the rule of law?

In order to answer these questions, we will first have a closer look at the history of the attorney-client privilege and its role within the justice system. We will analyze different reporting obligations for attorneys in the broader framework of the EU's fight against money laundering. The analytical focus will be narrowed down on the criminal justice systems in Germany and Switzerland. The two states form, for various reasons, interesting cases for a comparative legal analysis. Both legal systems are closely related and share many similarities in legal and doctrinal thinking. But while Germany has been one of the founding members of the European Union, Switzerland has remained independent with some interesting effects for the legal relationship on a bilateral and European level. Moreover, Switzerland's banking sector is notoriously famous for money laundering operations. Only recently the Swiss Secret data leak uncovered the involvement of the Credit Suisse Bank in vast money laundering

[3]Bundesverfassungsgericht [BVerfG] [Federal Consitutional Court], Oct. 8, 1976, 38 BvR 105, 111 (Ger.).

[4]Bundesverfassungsgericht [BVerfG] [Federal Consitutional Court], Mar. 30, 2004, 2 BvR 1520/01, 1521/01, Entscheidungen des Bundesverfassungsgerichts [BVerfGE] 110, 226 (Ger.) (internal quotations omitted).

[5]*See* Directive 2015/849, of the European Parliament and the Council of 20 May 2015 on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing, Amending Regulation (EU) No. 648/2012 of the European Parliament and of the Council, and Repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, para. 9 2015, O.J. (L 141) 73.

https://doi.org/10.1017/glj.2023.50 Published online by Cambridge University Press

activities spanning over decades.[6] Ultimately this contributed to the bankruptcy of the bank in 2023. Germany, however, has caught up with these developments in recent years earning the title of being a "gangsta's paradise" due to the inability of effectively curbing money laundering activities in the country.[7] Current EU efforts to handle the phenomenon are analyzed within the framework of "responsibilization"—in other words, the increasing inclusion of private entities and stakeholders into the prevention of and fight against crime, and respectively, money laundering.[8] The cases of Germany and Switzerland demonstrate how reporting obligations create increasing tensions for legal professions. We will discuss the effectiveness of these instruments and if they are justified in light of the growing phenomenon and increasingly harmful impact of money laundering on society.

B. The Attorney-Client Privilege from a Historical Perspective

Historically, the attorney-client privilege is almost as old as the legal system. The first known "attorney-client privilege" existed in ancient Rome: the *Lex Acilia de Repetundis,* introduced around 123 BCE, and later an imperial mandate, stated that an attorney could not be called as a witness either for or against his client.[9] Already, Cicero mentioned in one of his speeches that he could not summon the attorney of a corrupt politician during a trial because of an exception in the law.[10] The modern attorney-client privilege emerged in England in the 16th and 17th centuries.[11] Historical records of several cases exist concerning its nature and scope.[12] Generally speaking, only the information an attorney got through his counseling was protected, but not information he obtained from other people or that he knew on his own.[13] Subsequently, there was no clear line regarding attorney-client privilege in case law until the 18th century.[14] Nevertheless, it was only applicable in connection with pending or proposed litigation and there were some exceptions for, e.g., "communication related to a highly criminal act."[15] The scope of attorney-client privilege broadened in the first half of the 19th century, with the consequence that it applied to any communication between the client and his attorney, independently of whether it was advice in the context of litigation or about business and financial matters.[16]

Legal historians have different opinions about the underlying rationale of the attorney-client privilege in England at that time. Some argue that its basis is to be found in the honor and oath of the attorney, which attorneys have due to their status and which prohibits them to betray a client's trust.[17] Others argue from a more pragmatic point of view: The privilege existed as necessity since

[6]Jesse Drucker, *Vast Leak Exposes How Credit Suisse Served Strongmen and Spies,* N.Y. Times, Feb. 20, 2022, https://www.nytimes.com/2022/02/20/business/credit-suisse-leak-swiss-bank.html.

[7]Tim Bartz, David Bocking, Jorg Diehl, Martin Hesse, Gunther Latsch, & Anne Seith, *Deutschland, ein Paradies für Geldwäscher*, Der Spiegel (Aug. 27, 2021), https://www.spiegel.de/politik/deutschland/geldwaesche-deutschland-ein-paradies-fuer-geldwaescher-a-739b7eaa-0002-0001-0000-000178959711; *see also* Fabian Teichmann, *Recent Trends in Money Laundering*, 73 Crime L. Soc. Change 237 (2020).

[8]David Garland, *The Limit of the Sovereign State: Strategies of Crime Control in Contemporary Society*, 36 Brit. J. Criminology 445, 452 (1996).

[9]Lex Acilia de Repetundis, line 33; Dig. 22.5.25 (Arcadius, De Testibus).

[10]Cic. in Verr., 2.8.24.

[11]John William Gergacz, *Attorney-Corporate Client Privilege*, 37 Bus. Law 461, 473 (1982); Geoffrey C. Hazard Jr., *An Historical Perspective on the Attorney-Client Privilege*, 66 Calif. L. Rev. 1061, 1970 (1978); Michael D. Marrs, *Attorney-Client Privilege*, 46 Chi.-Kent. L. Rev. 54, 54 (1969).

[12]For a list of these cases, see Jonathan Auburn, Legal Professional Privilege: Law and Theory 5 (2000).

[13]*See, e.g.,* Spark v. Middleton [1664] 83 Eng. Rep. 1079 (Gr. Brit.).

[14]For an in-depth analysis of the case law of these years, see Hazard, *supra* note 11, at 1073–80.

[15]*Id.* at 1079.

[16]Bolton v. Corporation of Liverpool [1833] 39 Eng. Rep. 614, 618 (UK); Greenough v. Gaskell [1833] 39 Eng. Rep. 618, 625 (UK); see also Hazard, *supra* note 11, at 1083.

[17]Gergacz, *supra* note 11, at 473; Marrs, *supra* note 11, at 54.

https://doi.org/10.1017/glj.2023.50 Published online by Cambridge University Press

the client was not allowed to speak for himself in trial and consequently needed someone who spoke for him. Hence, the client had no other choice then to entrust the attorney with all relevant information to conduct the litigation. This, however, required absolute confidentiality between client and attorney.[18] These different possible explanations also reflect the focus of the privilege: the former view puts the focus on the attorney's interest, the latter on the working of the legal system.[19]

The historical development of attorney-client privilege in Continental Europe is very fragmented: Due to the more limited role "attorneys" played until the 18th century, attorney-client privilege did not exist in the sense we know it today.[20] And even after the profession of attorney became one of the "liberal professions," as which it has remained until today, the rules differed not just between countries but often even within one country.[21] In sum, there is little doubt that every possible variant of the attorney-client privilege can be found somewhere in Europe over time.[22]

C. Contemporary Ratios of the Attorney-Client Privilege

While the specific configuration of the attorney-client privilege has varied over time and place, nowadays, only a few underlying rationales can be identified. Those can be sorted into the following categories, even though it has to be noted that they partly overlap and a clear distinction is not possible: Serving interests of the clients,[23] the attorneys,[24] and society as a whole.[25]

The most obvious rationale for attorney-client privilege is that clients benefit from it: It expands the scope of the client's privacy to the attorney,[26] and it allows clients to disclose everything to their attorney without fearing that it might later be used against them.[27] This serves the interest of the client, because an attorney can only represent their client properly if they know all the facts.[28] In addition, it is argued that attorney-client privilege is part of client's privilege of non-self-incrimination (*nemo tenetur).*[29]

Closely interlinked with the client's interest in the attorney-client privilege is the attorney's interest. For an attorney, it is essential to get all relevant information from their client in order to

[18]Auburn, *supra* note 12, at 7–8; Hazard, *supra* note 11, at 1085.

[19]*See also* Auburn, *supra* note 12, at 4–7.

[20]From the Middle Ages on, "attorneys" were paid by the government and their goal was to ensure that the litigation went smoothly rather than to represent one party; *see* Robert Baumann, *Der Anwalt im Visier des Staates: Erwartungen des Gesetzgebers an die Rolle des Anwalts in einer freien Marktwirtschaft,* 17 Aktuelle Juristische Praxis [AJP] 43, 43–48 (2008); René Pahud de Mortanges & Alain Prêtre, Anwaltsgeschichte der Schweiz: Ein Grundriss 15–17 (1998); Kaspar Schiller, Schweizerisches Anwaltsrecht: Grundlagen und Kernbereich 11 (2009).

[21]*E.g.,* in Switzerland, every canton had its own "Attorney's Act," in some cases with major differences between them; *see* Baumann, *supra* note 20, at 45–48; Schiller, *supra* note 20, at 12–13.

[22]*See, e.g.*, Pahud de Mortanges & Prêtre, *supra* note 20, at 91–96.

[23]Gergacz, *supra* note 11, at 464; Schiller, *supra* note 20, para. 377; Thomas Sprenger, Anwaltsgeheimnis des Unternehmensjuristen 174 (2011); Ernst Staehelin, *Das Legal Privilege de lege ferenda aus Sicht eines Vertreters des Anwaltsverbandes, in* Anwaltsgeheimnis: Legal Privilege im schweizerischen und international Kontext 199, 201 (Claudia Seitz & Wolfgang Wohlers eds., 2019); Fred Zacharias, *Rethinking Confidentiality*, 74 Iowa L. Rev. 351, 358 (1989).

[24]Auburn, *supra* note 12, at 66; Peter Burckhardt & Kerim Tbaishat, Anwaltsgeheimnisschutz nach U.S. Recht – mit Vergleich zur aktuellen Rechtslage in der Schweiz 175 (Claudia Seitz & Wolfgang Wohlers eds., 2019); Gergacz, *supra* note 11, at 467; Sprenger, *supra* note 23, at 174–75; Staehelin, *supra* note 23, at 201; Bankim Thanki, The Law of Privilege para. 1.17 (3d ed. 2018); Zacharias, *supra* note 23, at 359.

[25]Burckhardt & Tbaishat, *supra* note 24, at 175; Gergacz, *supra* note 11, at 466; Schiller, *supra* note 20, paras. 386–87; Sprenger, *supra* note 23, at 175; Thanki, *supra* note 24, para. 1.17; Zacharias, *supra* note 23, at 358.

[26]Sprenger, *supra* note 23, at 174.

[27]Gergacz, *supra* note 11, at 465; Staehelin, *supra* note 23, at 201.

[28]Gergacz, *supra* note 11, at 464–65; Schiller, *supra* note 20, para. 377; Sprenger, *supra* note 23, at 173.

[29]Max Radin, *The Privilege of Confidential Communication Between Lawyer and Client,* 16 Calif. L. Rev. 487, 490 (1928); Sprenger, *supra* note 23, at 177.

https://doi.org/10.1017/glj.2023.50 Published online by Cambridge University Press

be able to provide proper advice or defense.[30] Because clients often do not know what exactly the relevant facts in their case are, they should tell their attorney everything that might in their view be of even just the slightest relevance.[31] It can be assumed that clients would be more reluctant to share all information with their attorney if there were no attorney-client privilege, an issue also known as the "chilling effect theory."[32] Therefore, the attorney-client privilege is in the interest of the attorney as well, as it is essential for proper lawyering. This line of argumentation has been used by courts of different countries.[33]

Some also consider the attorney-client privilege to serve the interest of the society, in the sense that it is an important principle for a fair justice system.[34] This line of argumentation builds on the same idea as the two mentioned above, but approaches it from another angle and even goes a step further: The attorney-client privilege makes a proper representation possible, which in turn helps to prevent miscarriages of justice.[35] Closely related is the argument, mainly made by common law scholars, that the attorney-client privilege prevents litigation.[36] Here, it is argued that if clients had to fear that the information they share with their attorney is not confidential, they would only share the information that supports their position, as they would be afraid that the other side could use unfavorable information against them.[37] Thus, the attorney would only get one-sided and limited knowledge of the situation, which can lead the attorney to decide to conduct litigation because they assess the chances of litigation higher than they actually are.[38] However, if the attorney also knows the facts that are unfavorable for their client's position, they more often come to the conclusion that a deal with the other party is better. This, in turn, is beneficial for the effectiveness of the entire legal system because litigation costs are lower and relationships between parties are more amicable.[39]

D. Attorney-Client Privilege from an Empirical Perspective

All of the above-mentioned arguments for an attorney-client privilege are based on the same key assumption: Without the attorney-client privilege, clients would disclose less information to their attorney. The question remains: Is this really the case? Finding an empirical answer to this question is not an easy task.[40] Still, several studies have tried and produced some interesting insights.

[30]Burckhardt & Tbaishat, *supra* note 24, at 175; Gergacz, *supra* note 11, at 467; Sprenger, *supra* note 23, at 172–77; Thanki, *supra* note 24, para. 1.17.

[31]Auburn, *supra* note 12, at 66–67; Gergacz, *supra* note 11, at 467; Sprenger, *supra* note 23, at 174.

[32]Auburn, *supra* note 12, at 66; Gergacz, *supra* note 11, at 469; Thanki, *supra* note 24, para. 1.17–1.22.

[33]R. v. McClure, [2001] S.C.R. 14 (Can.) para. 31; Three Rivers District Council v. Governor and Company of the Bank of England [2004] UKHL 48, [34] (UK); Bundesgericht [BGer] [Federal Supreme Court] Dec. 29, 1986, 112 Entscheidungen des Schweizerischen Bundesgerichts [BGE] I b 606–07 (Switz.); Upjohn Co. v. United States, 449 U.S. 383, 389 (1981).

[34]Auburn, *supra* note 12, at 65; Gergacz, *supra* note 11, at 466; Walter Schluep, Über Sinn und Funktionen des Anwaltsgeheimnisses im Rechtsstaat 37 (1994); Staehelin, *supra* note 23, at 201–02.; Thanki, *supra* note 24, para. 1.17.

[35]Burckhardt & Tbaishat, *supra* note 24, at 175; Gergacz, *supra* note 11, at 467; Sprenger, *supra* note 23, at 175.

[36]Gergacz, *supra* note 11, at 467; Radin, *supra* note 29, at 489.

[37]Gergacz, *supra* note 11, at 467; Radin, *supra* note 29, at 489.

[38]Gergacz, *supra* note 11, at 467; Radin, *supra* note 29, at 489.

[39]Radin, *supra* note 29, at 490.

[40]As one can easily imagine, it is difficult to find attorneys which are either willing or able to share information with researchers about concrete clients respectively their relationship, which falls under the attorney-client privilege; *see* Brenda Danet, Kenneth B. Hoffman, & Nicole C. Kermish, *Obstacles to the Study of Lawyer-Client Interaction: The Bibliography of a Failure*, 14 L. & Soc'y Rev. 905, 908–11, 917–18; Auburn, *supra* note 12, at 69. Even the US Supreme Court recognized the difficulties of giving a clear answer to this question due to the nature of the attorney-client privilege; *see* Swindler & Berlin v. United States, 524 U.S. 399, 410 (1998).

https://doi.org/10.1017/glj.2023.50 Published online by Cambridge University Press

A famous empirical study testing the attorney-client relationship is the so-called "Yale study."[41] It is based on surveys of laymen and a variety of professionals, *inter alia* attorneys. The study showed that most of the laymen were aware of the attorney-client privilege and a slight majority would be less likely to make a "free and complete disclosure" if there were no attorney-client privilege. Another often-cited study is the "Cornell study."[42] Like the Yale study, it is based on surveys of attorneys and laymen.[43] The results were also similar: A clear majority of the laymen knew of the attorney-client privilege and slightly more than half of them stated, they would withhold information from their attorneys without it.[44] A majority of the attorneys surveyed in the study were convinced that the attorney-client privilege leads clients to disclose more information to them.[45] Additionally, the laymen were surveyed regarding exemptions to the attorney-client privilege: In several hypothetical scenarios ranging from kidnapped children to undeserved governmental benefit, the respondents were asked whether attorneys should be exempted from the privilege and allowed to disclose information to the authorities. The results showed that most laymen approve of allowing attorneys to disclose information in these scenarios. Only up to 20% would no longer, or less often, consult an attorney if the attorney were allowed to disclose information in these scenarios.[46]

Indeed, both studies have their limitations and have been criticized accordingly for the rather small sample sizes as well as the selection of participants, which was neither representative nor randomized.[47] Also, both studies were based on surveys, rather than on the observation of actual behavior of the respondents. After all, it seems easy to waive the attorney-client privilege in hypothetical and rather extreme scenarios. Nevertheless, both studies empirically support the assumption that without the attorney-client privilege, clients would be reluctant to disclose all information to their attorneys.

E. Fighting Money Laundering Through Reporting Obligations

Despite the long history and indisputable current relevance in recent years, the attorney-client privilege has come increasingly under pressure within Europe. Within the legal framework of the European Union more and more reporting obligations for attorneys were established, increasingly interfering with the attorney-client privilege. To understand these developments, one must keep in mind, that the attorney-client privilege is not explicitly mentioned in the European Convention on Human Rights (ECHR). However, the European Court of Human Rights (ECtHR) has stated in its case law that attorney-client privilege is part of Article 6—right to a fair trial—and Article 8—right to respect for private and family life—of the convention.[48] Article 6 protects attorney-client privilege during a trial.[49] The attorney-client privilege in the context of Article 6 is absolute, meaning a violation of it during a trial cannot be justified.[50] Article 8, in contrast, protects the

[41]Notes and Comments, *Functional Overlap Between the Lawyer and Other Professionals: Its Implications for the Privileged Communications Doctrine*, 71 YALE L. J. 1226 (1962).

[42]Zacharias, *supra* note 23, at 379–96.

[43]*Id.* at 379.

[44]*Id.* at 380–81.

[45]*Id.* at 381.

[46]*Id.* at 394–95.

[47]The Cornell study surveyed 108 laymen—most of them connected to the University—and 125 attorneys while the Yale study surveyed 63 attorneys and 105 laymen; *see* AUBURN, *supra* note 12, at 70–71; Zacharias, *supra* note 23, at 380.

[48]Brennan v. United Kingdom, 2001-X Eur. Ct. H.R. 19 para. 62; Campbell v. United Kingdom, 233 Eur. Ct. H.R. 15 paras. 46–54 (1992).

[49]Brennan, 2001-X Eur. Ct. H.R. 19 para. 62; S. v. Switzerland, 220 Eur. Ct. H.R. 16 para. 48 (1991).

[50]Foxley v. UK, App. No. 33274/96, para. 50 (June 20, 2000), https://hudoc.echr.coe.int/eng?i=001-58838; THANKI, *supra* note 24, para. 17.9.

https://doi.org/10.1017/glj.2023.50 Published online by Cambridge University Press

attorney-client privilege beyond the context of a trial.[51] However, the protection of Article 8 is not absolute as it allows the attorney-client privilege to be breached under the requirements of Paragraph 2, hence in accordance with the law, a legitimate aim, and necessity in a democratic society.[52] In 2012, the ECtHR had to decide on the compatibility of the attorney-client privilege—Article 8 ECHR—and reporting obligations for attorneys regarding money laundering.[53] The court came to the conclusion that the breach of Article 8 ECHR was justified because the violation of attorney-client privilege was limited and, hence, was outweighed by the benefit of combatting money laundering more efficiently.[54] The decision demonstrated not only how the fight against money laundering had permeated the European legal system, but also the challenges when weighing EU fundamental freedoms, on the one hand, and human rights enshrined in the ECHR, on the other hand, in light of the principle of proportionality.[55]

Although these reporting obligations for attorneys, and more generally for private institutions, are not a new invention in the fight against money laundering, they are not nearly as old as the attorney-client privilege. The EU implemented its first anti-money laundering directive in 1991.[56] It introduced reporting obligations for credit and financial institutions in case of a suspicion of money laundering.[57] Over the years, the EU expanded the scope and the obligations of those falling under them several times through amendments and new directives.[58] The fifth and most recent anti-money laundering directive was passed in 2018.[59] For the topic at hand Lit 9 of the directive is of particular interest. There, reporting obligations for legal professionals are laid out when participating in financial or corporate transactions, including when providing tax advice, where there is the greatest risk of the services of those legal professionals being misused for the purpose of laundering the proceeds of criminal activity or for the purpose of terrorist financing. Even more importantly, exemptions to the reporting obligations of the FIUs are specifically named in Article 34:nformation obtained before, during or after judicial proceedings, or in the course of ascertaining the legal position of a client. The reasoning behind this is the protection of professional secrecy, hence the attorney-client privilege. However, this protection of professional secrecy does not apply where the legal professional is taking part in money laundering or knows that the client is. EU member states had until 2017 to implement the provisions in their national legislation.[60]

However, it remains important to keep in mind that reporting obligations regarding money laundering affects not only attorneys, but also a wide range of professions and institutions.

[51]Julia Pätzold, *EMRK Art. 8, in* Konvention zum Schutz der Menschenrechte und Grundfreiheiten: EMRK para. 88 (Ulrich Karpenstein & Franz Mayer eds., 3d ed., 2022); Campbell, 233 Eur. Ct. H.R. paras. 46–54; Wieser & Bicos Beteiligungen GmbH v. Austria, 2007-IV Eur. Ct. H.R. 6 para. 37 (2007).

[52]Pätzold, *supra* note 51, para. 90; Wieser and Bicos Beteiligungen GmbH, 2007-IV Eur. Ct. H.R. at 53–68; Kruslin v. France, 176-A Eur. Ct. H.R. 16 paras. 27–36 (1990).

[53]Michaud v. France, App. No. 12323/11 (Dec. 6, 2012), https://hudoc.echr.coe.int/eng?i=001-115377.

[54]Michaud, App. No. 12323/11, para. 121.

[55]Sara De Vido, *Anti-Money Laundering Measures Versus European Union Fundamental Freedoms and Human Rights in the Recent Jurisprudence of the European Court of Human Rights and the European Court of Justice*, 16 German L. J. 1271–292 (2015).

[56]Council Directive of 10 June 1991 on Prevention of the Use of the Financial System for the Purpose of Money Laundering, 91/308/EEC, 1991 O.J (L. 166) 77.

[57]Council Directive 91/308/EEC, 1991 O.J (L. 166) 77, 80.

[58]*See* Olaf Bausch & Thomas Voller, Geldwäsche—Compliance: Praxishandbuch für Güterhändler, Kunstvermittler und Kunstlagerhalter 7–11 (2d ed. 2020).

[59]Directive 2018/843, of the European Parliament and of the Council of 30 May 2018 Amending Directive 2015/849 on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing, and Amending Directives 2009/138/EC and 2013/36/EU, 2017 O.J. (L 156) 43.

[60]Directive 2015/849, of the European Parliament and of the Council of 20 May 2015 on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing, Amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and Repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, 2015 O.J. (L 141) 73, 111.

https://doi.org/10.1017/glj.2023.50 Published online by Cambridge University Press

Customer due diligence today includes a variety of measures such as identifying the customer, identifying the beneficial owner, obtaining information on the purpose of the relationship, and identifying the source of the funds involved.[61] If there is a suspicion of money laundering after receiving all this information, a report must be sent to the competent authority.[62] Often it is the only way law enforcement agencies obtain knowledge of suspicious transactions, which is for two main reasons. First, most of the professionals involved are shielded by some sort of confidentiality, such as bank secrecy, data protection rules, or an attorney-client privilege. Second, none of the involved have an interest to disclose any information on a voluntary basis as these profitable business models are mainly built on secrecy and intransparency.

Reporting obligations are apt to change this balance mainly through what criminologists call a responsibilization strategy: Private actors become responsible to support crime investigation and ultimately to prevent crimes such as money laundering from happening in the first place.[63] This outsourcing of responsibilities initially affected only financial institutions and advisors. In recent years, however, a so-called net widening effect could be observed. The criminological concept generally describes a dynamic of law enforcement authorities implementing administrative or practical changes that result in a greater number of individuals being controlled by the criminal justice system.[64] These changes affected mainly private stakeholders who were increasingly included in crime fighting strategies. A good contemporary example for this dynamic is the increasing responsibilities of online platforms to prevent crimes like hate speech or the grooming of children.[65] In this sense, it was only a matter of time before attorneys became the focus of these developments. The Panama Papers have fostered the popular believe that attorney are gatekeepers or facilitators with their services likely to be misused within money laundering schemes.[66] However, the question remains how much truth there actually is to this popular belief.

F. The Gatekeeper-Problem

In order to launder money, criminals need access to international financial markets to conceal the origin of the money.[67] Due to anti-money laundering regulations, accessing international financial markets directly through banks has become increasingly difficult. Therefore, money launderers resort to alternative options, for which advice from legal experts is required.[68]

Attorneys can assist in that matter in several ways but run a risk of becoming accomplices in a crime, for example, by investing dirty money in their own name.[69] Obviously, in cases where attorneys intentionally commit crimes, the attorney-client privilege cannot apply. More relevant

[61]Financial Action Task Force on Money Laundering (FATF), FATF Recommendations 2012—Amended 2021 recommendation 10 (2021), https://www.fatfgafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf.

[62]FATF, *supra* note 61, recommendation 20.

[63]David Garland, *The Limit of the Sovereign State: Strategies of Crime Control in Contemporary Society*, 36 Brit. J. Criminology 445, 452 (1996).

[64]*Id.*

[65]Natali Helberger, Jo Pierson, & Thomas Poell, *Governing Online Platforms: From Contested to Cooperative Responsibility*, 34 Info. Soc'y 1, 1–14 (2018).

[66]Commission de Conseil de Barreaux européens [CCBE] [Council of Bars and Law Societies of Europe], CCBE Response to the Commission: The Review of the Third Anti-Money Laundering Directive 7 (2010); Michelle Gallant, *Lawyers and Money Laundering Regulation: Testing the Limits of Secrecy in Canada* 44–45, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2336219; Fred Zacharias, *Lawyers as Gatekeepers*, 41 San Diego L. Rev. 1387, 1387 (2004).

[67]CCBE, *supra* note 66; Gallant, *supra* note 66, at 44; Mario Giannini, Anwaltliche Tätigkeit und Geldwäscherei 45 (2005); Zacharias, *supra* note 66, at 1389.

[68]Gallant, *supra* note 66, at 35; Fabian Teichmann, Umgehungsmöglichkeiten der Geldwäschereipräventionsmassnahmen 26 (2016); Teichmann, *supra* note 7, at 343.

[69]*Final Study on the Application of the Anti-Money Laundering Directive* [hereinafter Deloitte Study], at 167, COM (2010), https://op.europa.eu/s/vw44; Gallant, *supra* note 66, at 45; Giannini, *supra* note 67, at 46–47.

https://doi.org/10.1017/glj.2023.50 Published online by Cambridge University Press

to the topic at hand are therefore the many cases where attorneys aid and abet in money laundering operations by advising and creating complex corporate vehicles and special legal arrangements.[70] Schemes like these are useful to inject money into international financial markets while disguising its origins. It is increasingly difficult or even impossible to determine the origin of funds that have passed through several corporations and trusts in different countries.[71] This is where the role of attorneys as gatekeepers comes into play. Creating such multinational corporate vehicles and trusts is almost exclusively possible with the help of an attorney, both for advice on how best to construct the operation and for actually creating it.[72]

While popular publications like the Panama Papers and subsequent studies suggested that this modus operandi seems rather common in the world of money launderers, the real extent of this phenomenon remains unclear. While most empirical studies on this issue are not more than "guestimations," some reliable data has been collected recently. For example, a Canadian study examining police reports concluded that in the majority of the investigated money laundering cases, attorneys were involved in some way, mostly by assisting in the purchase of real estate and for creating complex vehicles with shell and offshore companies.[73] While, presumably in most cases, the attorneys did not know of the criminal origin of the money, there were often indications that the attorneys knew or at least turned a blind eye to the illicit origin of the money.[74]

A study conducted by the consulting firm Deloitte produced similar results. An analysis of reports about attorney suspected money laundering in EU countries before 2010 showed that the number of reports varied between countries but was low overall—mostly less than 10 reports per country and year.[75] When asked about the reasons for the low numbers of reports, most public agencies—financial regulators—pointed to a lack of awareness of money laundering and the need for more training. Private stakeholders—attorneys—claimed the low number of suspicious transactions was low to begin with.[76] The authors of the study explain the big differences between the countries—only two reports by attorneys in France in 2009; 4,767 such reports in the UK in the same year—by the fact that countries with many reports had high possible criminal sanctions and a committed enforcement policy.[77]

The study by Teichmann on "Recent Trends in Money Laundering" does not provide any specific data about the extent of attorney's involvement in money laundering operations. However, in interviews with a considerable number of suspected money launderers as well as compliance officers from the personal network of the researcher, it is clearly stipulated that the role of legal experts for illicit operations is essential. The author emphasizes that the fight against money laundering should not be delegated to private actors beyond the legal duty to provide relevant information.[78] Indeed, this begs the question how far these legal duties have to go and to what extent they need to be limited by the law. A clear legal framework is even more relevant in view of important legal institutes like the attorney-client privilege. Particularly, as there are some indications that reporting obligations—given these are also enforced—may increase the risk for money launderers, and hence, may have a deterring effect. A closer look at the examples of

[70]Gallant, *supra* note 66, at 44; Giannini, *supra* note 67, at 44–45; Zacharias, *supra* note 66, at 1390–394.

[71]Deloitte Study, *supra* note 69, at 167; FATF, Guidance for a Risk-Based Approach: Legal Professionals 35–38 (2019), https://www.fatf-gafi.org/media/fatf/documents/reports/Risk-Based-Approach-Legal-Professionals.pdf; Gallant, *supra* note 66, at 44; Giannini, *supra* note 67, at 44–45.

[72]Deloitte Study, *supra* note 69, at 167; Stephen Schneider, *Testing the Limits of Solicitor-Client Privilege: Lawyers, Money Laundering, and Suspicious Transaction Reporting* 9 J. Money Laundering Control 27, 34–35 (2006).

[73]Schneider, *supra* note 72, at 39.

[74]*See id.*

[75]*Id.* at 243–44; Karin Svedgerg Helgesson & Ulrika Mörth, *Client Privilege, Compliance and the Rule of Law: Swedish Lawyers and Money Laundering Prevention*, 69 Crime L. Soc. Change 227, 244 (2018).

[76]Deloitte Study, *supra* note 69, at 244–45.

[77]*Id.* at 246, 258–66.

[78]Teichmann, *supra* note 7, at 242.

https://doi.org/10.1017/glj.2023.50 Published online by Cambridge University Press

Germany and Switzerland, respectively, how reporting obligations are actually implemented in legal practice may shed some light on this issue.

G. Comparing Germany and Switzerland

Germany and Switzerland make interesting examples for legal comparisons due to their geographical and legal cultural proximity, while being popular destinations for money launderers from all over the world.[79] Despite these commonalities there exist some considerable differences with regards to the implementation of reporting obligations of attorneys on money laundering cases. The reasons for this are manifold. Most importantly, Switzerland is, unlike Germany, not a member of the EU. As a consequence, Switzerland does not have to implement the same Directives as Germany, such as the Anti-Money Laundering Directives. Moreover, Switzerland with its strong banking and finance industry and infamous bank secrecy has long been known for its rather favorable conditions to launder money.[80]

The framework, which applies to both countries, is the recommendation by the Financial Action Task Force (FATF), an inter-governmental body and watchdog setting international standards that aim to prevent global money laundering and terrorist financing. According to the recommendation, attorneys and "other independent legal professionals" fall under reporting obligations if they are involved in buying or selling real estate for a client, in managing client money, or a client's bank account.[81] Reporting obligations also apply regarding the organization of contributions for or management of companies or the creation, operation, or management of legal persons or arrangements.[82] If an attorney conducts any of these activities for a client, they have to follow the normal customer due diligence measures or conduct additional measures regarding politically exposed persons.[83] If the attorney has a suspicion after following these measures, they have the normal obligation to report this suspicion to the competent authority.[84]

In addition, Germany implemented the EU directive concerning reporting obligations regarding money laundering for attorneys in its Money Laundering Act.[85] However, the German legislature deviated in one aspect: Attorneys are not obliged to report if they obtained relevant information by communications that are protected by the attorney-client privilege.[86] This is usually the case when the attorney gives legal advice or in the framework of a legal representation in a court proceeding. Again, this exception does not apply if the attorney knows that their services are purposefully used for money laundering.[87] Generally not protected are, for example, the purchase and sale of real estate or commercial enterprises, the management of money, securities or other assets, the opening or management of bank, savings or securities accounts, and the establishment, the operation or administration of trusts, companies or similar structures.[88] While these are far reaching reporting obligations one have to keep in mind that on the other side of the medal German attorneys can be held criminally liable if they *don't* comply with the professional

[79]*See, e.g.,* Teichmann, *supra* note 7, 245.

[80]Jack A. Blum , Michael Levi, R. T. Naylor & Phil Williams, "Financial Havens, Banking Secrecy and Money Laundering", 4 Trends ORG. CRIME 68 (1999), 69.

[81]FATF, *supra* note 61, recommendation 22.

[82]*Id.*

[83]*Id.*

[84]*Id.* at recommendation 23.

[85]Wissenschaftliche Dienste [WD] [Research Services], Sachstand Die Meldepflicht für Rechtsanwälte für Rechtsanwälte nach dem Geldwäschereigesetz 4 (2019), https://www.bundestag.de/resource/blob/644562/2b573dd91273bd8fc69f798d72fc0e14/WD-7-047-19-pdf-data.pdf.

[86]Geldwäschegesetz [GwG] [Money Laundering Act] [hereinafter GwG], June 26, 2017, §43 para. 2 (Ger.); WD, *supra* note 85, at 5.

[87]GwG, §43 para. 2 (Ger.).

[88]GwG, §2 para. 1 (Ger.).

https://doi.org/10.1017/glj.2023.50 Published online by Cambridge University Press

secrecy by sharing information belonging to the personal sphere or the business of a client.[89] The law provides for a prison sentence of up to one year. However, the provision is of little practical significance and the number of convictions amounts to approximately one dozen per year.[90]

In a landmark decision of 2004, the German Constitutional Court corroborated that attorneys have to be exempt from state control and that the trusting and independent relationship between client and attorney are paramount for the rule of law.[91] Ever since, the German legislator has been rather reluctant to constrain the attorney-client privilege in significant ways. Therefore, until today there exists a rule-exception principle for German attorneys when it comes to reporting obligations. As a rule, lawyers are obliged to report unless the relevant information was obtained in the course of legal advice or representation in court.

Generally, similar rules apply within the Swiss legal system. The Swiss Anti-Money Laundering Act is only and solely applicable to attorneys if they act as financial intermediaries.[92] In such a case, the attorney also has customer due diligence duties and reporting obligations similar to those in the FATF recommendations.[93] Attorneys are considered being financial intermediaries if their activities are not occupational-specific. Similar as in Germany it is forbidden for Swiss attorneys under threat of punishment to disclose any information confided to them in their professional capacity.[94] But this provision only applies if attorneys have obtained the information in the context of an occupational-specific activity —such as giving legal advice —and not when attorneys are acting as financial intermediaries.[95] In such cases, the professional secrecy does not apply. But also when the professional secrecy applies, attorneys can be released from it by the cantonal supervisory authority.[96] In such cases, the cantonal supervisory authority will balance up the interests of the attorney and the client against each other.[97] In practice however, attorneys use this instrument primary for the collection of their fee.[98] In the aftermath of the publishing of the Panama Papers Swiss politicians increasingly perceived this far-reaching privilege of lawyers as a loophole in the law. It only imposed reporting obligations whenever the attorney directly was involved in taking or moving the dirty money but not when, for example, the attorney was involved in setting up a shell company for the purpose of laundering. However, a draft bill to include attorneys into these reporting obligations was rejected by the Swiss Parliament in 2021 with the argument that this bill would undermine attorney-client privilege.[99] It is worth noticing that approximately a fifth of the members of the Swiss Parliament are lawyers and accordingly the resistance against the curtailment of their privilege was fierce.

From a legal comparative perspective, it shows that in both cases countries the attorney-client privilege has come under pressure by reporting obligations. Still, in both legal systems there is a consensus that the attorney-client privilege does apply to communications that are primarily for legal purposes. In Germany, a rule-exception approach was implemented by imposing reporting obligations for all activities outside legal advisory and representation in a court proceeding. The Swiss legislator rejected a similar approach by adhering to its liberal traditions and imposing

[89]*See e.g.,* Strafprozessordnung [StPO] [Code of Criminal Procedure], § 53 para. 1, no. 3, §203 para. 1, no. 3 (Ger.).

[90]Münchner Kommentar zum Strafgesetzbuch, §203 para 10.

[91]Bundesverfassungsgericht [BVerfG] [Federal Consitutional Court], Mar. 30, 2004, 2 BvR 1520/01, 1521/01; 2 BvR 110, 226 (Ger.).

[92]Bundesgesetz über die Bekämpfung der Geldwäscherei und der Terrorismusfinanzierung [GwG] [Swiss Anti-Money Laundering Act] [hereinafter SGwG] Oct. 10, 1997, SR 955, art. 2 (Switz.).

[93]SGwG Oct. 10, 1997, SR 955 (1997), arts. 3–8, 9 (Switz.).

[94]Schweizerisches Strafgesetzbuch [StGB] [Criminal Code] [hereinafter StGB] Dec. 21, 1937, SR 757 (1938), art. 321 (Switz.)

[95]Bundesgericht [BGer] [Federal Supreme Court] Nov. 22, 2017, 143 BGE IV 462, at 467; BGer Dec. 29, 1986, 112 BGE I b 606 (Switz.).

[96]Adrian Staehlin, Zivilprozessrecht 654 (3d ed. 2019).

[97]*See id.*

[98]*See id.*

[99]Amtliches Bulletin [AB] [Official Bulletin] [hereinafter AB] 175–76 (2021) (Switz.)

https://doi.org/10.1017/glj.2023.50 Published online by Cambridge University Press

reporting obligations only exceptionally and in strictly defined cases, such as when attorneys act as financial intermediaries. However, commentators of the debate predict that international pressure on the Suisse legislator will continue to rise and push for a legislative reform. This begs the question if the German solution may be an option for Switzerland as well. At first sight this may be the case. At first glance, the clear separation of legal advice or representation in court from all other activities seems to be generally understood and meet the requirements of legal certainty.[100] However, on closer inspection, it appears more as circular reasoning to exclude reporting obligations as soon as these violate attorney-client privilege without specifying when exactly this is the case. So far, the reasoning has demonstrated that a clear answer to this is very hard to give.

The rule of thumb "I know it when I see it," hence, entrusting the attorneys with knowing best whenever there is information to report, may in practice be the most realistic option and, for obvious reasons, be favored by the attorneys' associations. From the legislator's point of view, however, this would hardly be a satisfactory solution, especially because it coats the much more fundamental question: Do reporting obligations outside legal advisory or a trial proceeding really violate attorney-client privilege?

It was demonstrated that the purpose of the attorney-client privilege is primarily to ensure a fair administration of justice and correct legal representation. However, in Switzerland, money laundering itself is a crime against the administration of justice, specifically, "frustrating the identification of the origin, the tracing, or the forfeiture of assets."[101] In that sense, one may argue that the attorney-client privilege as well as reporting obligations exist to achieve the same purpose rather than being opposed to each other. One should not forget that the attorney-client privilege in both countries, although being paramount to the rule of law, is by no means absolute. In the German system this is emphasized not only by the possibility given to the client to waive the privilege, but also by the numerous exceptions included in the criminal code, as in cases of serious or imminent crimes.[102] There is not much doubt that in both countries the discussion revolving around of what falls within and what falls outside the reporting obligations has not yet come to an end.

H. Concluding Remarks

In this Article we argued that repressive developments fueled by popular demand in the global fight against money laundering have put the attorney-client privilege under increasing pressure. This has led to potentially far reaching legal and professional consequences for attorneys involved with clients who are suspected of money laundering. Hardly surprisingly, these developments are met with growing resistance in the legal field. In Canada, several courts already have exempted attorneys from reporting obligations regarding money laundering based on the reasoning that these obligations violate the attorney-client privilege.[103] Reporting obligations are costly, and burden attorneys with many duties, often outweighing the benefits.[104] Critics also point to the fact that complying with reporting obligations requires a lot of expertise and capacities, which small law firms do not have.[105] Moreover, private institutions like banks and financial service providers, already have to comply to strict reporting obligation making additional obligations for attorneys widely redundant. Current legal provisions hold attorneys criminal liable if any intentional involvement in money laundering operations exists.[106] Additional safeguards seem excessive and

[100]Bundesrechtsanwaltsordnung [BRAO] [Federal Code for Lawyers] § 43a (Ger.).

[101]StGB Dec. 21, 1938, SR 757 (1938), art. 305bis (Switz.)

[102]*See* for example Strafgesetzbuch [StGB] [Penal Code] §§ 138, 139.

[103]The Law Society of British Columbia v. Attorney General, [2001] BCSC 1593 (Can.); Attorney General of Canada v. Federation of Law Societies of Canada, [2015] 1 S.C.R. 401 (Can.).

[104]Markus Meuwly, *Revision GwG—Beratende Anwälte im Visier des Regulators*, 38 Anwaltsrevue 7, 13 (2020).

[105]Deloitte Study, *supra* note 69, at 241.

[106]AB 12, 13-15 (2020) (Switz.); CCBE, *supra* note 66, at 4.

https://doi.org/10.1017/glj.2023.50 Published online by Cambridge University Press

running the risk of violating the attorney-client privilege, one of the cornerstones of the rule of law. In legal practice reporting obligations are almost impossible to fulfill as it remains open how far attorneys have to inquire if indications for criminal conduct exist. Indeed, it seems more likely that attorneys being aware of red flags may just immediately terminate the mandate in order to avoid any liability. This, however, creates the dynamic where money launderers will look for the rotten apples among attorneys, hence, rendering the preventive effect at least questionable.

Lastly, and often forgotten, the attorney-client privilege is a double-edged sword. It protects not only the client from the powerful state, but also the attorney from its own client. While the attorney-client privilege is fairly known among legal laymen the understanding of reporting obligations may be rather limited. An attorney suspected of collaborating with law enforcement authorities may take some considerable risks.

On the other side legislators around the world have come under pressure as well. Large data leaks such as the Panama Papers have shifted the public focus from the criminals to the facilitators of their crimes, first and foremost the lawyers. Moreover, awareness has grown for the immense social and financial damage caused by global money laundering schemes. This public pressure makes it increasingly difficult to hide behind formal legal institutions such as the attorney-client privilege. In this respect, the privatization or responsibilization of law enforcement can also be understood as a reaction to a seemingly unhinged system of self-enrichment that no longer can be controlled by state intervention alone. Pointing fingers at the few rotten apples among the facilitators is little convincing if one considers the large sums that are laundered in complex and global money laundering schemes. Only recently, the activities of Russian oligarchs who have found safe havens for their assets, especially in Switzerland but also in Germany, are making headlines. The EU legislature considers money laundering as no less than a threat to the EU free market and international development.[107] At the same time, efforts to curb money laundering in the past decades have been largely unsuccessful. Organized criminals are perceived to be increasingly on the rise all over Europe seeping into and infiltrating legal markets, the economy, and societal institutions.[108] In that sense, the shift towards holding the profiteers accountable seems less a question of a political pressure but one of necessity.

But despite all the understanding for social concerns and the political pressure that legislators are under, two things must not be forgotten: First, there is a need for sustainable solutions that are more than just a quick fix. In this regard the legislation concerning reporting obligations for attorneys in Germany and even more so in Switzerland provides room for improvement. Second, the rule of law must not be sacrificed on the altar of a political zeitgeist. The increasing involvement of private actors and even more so of attorneys remains a slippery road. It requires careful balancing of the public interests and EU fundamental freedoms with an effective judiciary guaranteed under the rule of law.

Acknowledgements. The author declares none.

Competing Interests. The author declares none.

Funding Statement. No specific funding has been declared in relation to this article.

[107] *See* Directive 2015/849, para. 9, 2015 O.J. (L 141) 73.

[108] Robin Hofmann, *Sind die Niederlande ein Narco Staat?*, 12 Der Kriminalist 5 (2021); Pieter Tops, Judith van Valkenhoef, Edward van der Torre, & Luuk van Spijk, The Netherlands and Synthetic Drugs: An Inconvenient Truth (2018).

Cite this article: Hofmann R, Lustenberger L (2023). Reporting Obligations for Attorneys in Money Laundering Cases: Attorney-Client Privilege Under Pressure?. *German Law Journal*, 1–13. https://doi.org/10.1017/glj.2023.50