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Research Article

LEGAL CONSTRAINTS AND PROCEDURAL SAFEGUARDS OF UNDERCOVER OPERATIONS IN ANTI-MONEY LAUNDERING INVESTIGATIONS: A UAE PERSPECTIVE

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ABSTRACT

Background: Covert operations have become indispensable in the fight against financial and cybercrimes, specifically money laundering and the exploitation of digital financial platforms. In the United Arab Emirates (UAE), judicial police officers are legally empowered to utilize undercover techniques, including disguise, impersonation, confidential informants, and transaction surveillance, to detect illicit activities while ostensibly respecting the autonomy of suspects. Despite these provisions, significant ambiguities persist in distinguishing lawful detection from unlawful instigation, posing a risk to due process and the admissibility of evidence. Comparative jurisprudence, particularly from the European Court of Human Rights (ECtHR), emphasizes the necessity of judicial oversight, proportionality, and robust anti-entrapment mechanisms, offering a vital framework for modernizing UAE legal practices.

Method: *The study employed a descriptive-analytical research design, integrating quantitative and qualitative methodologies. A structured questionnaire was distributed to a sample of 321 specialists spanning the legal, financial, and cyber sectors in the UAE to evaluate expert perceptions regarding the operational effectiveness and ethical implications of undercover agents. Concurrently, a doctrinal analysis of the UAE Federal Decree-Law on Anti-Money Laundering was conducted. This included a rigorous examination of statutory provisions and judicial precedents, and a comparative evaluation against ECtHR standards and European Union (EU) directives, to identify operational, ethical, and legal gaps within the current UAE framework.*

Results and Conclusions: *The study demonstrates that the strategic use of undercover agents significantly enhances the detection and prevention of money laundering within the UAE. Quantitative results confirm strong expert consensus: 76.5% of specialists identify confidential agents as vital for reducing financial crime, and 81% associate their deployment with increased anti-money laundering (AML) effectiveness. However, the research also exposes critical legal and ethical vulnerabilities, particularly when investigative tactics risk overriding a suspect's free will or manufacturing criminal opportunities. Comparative analysis reveals that ECtHR jurisprudence provides a more robust framework for safeguarding due process, emphasizing mandatory judicial pre-authorization, proportionality, and the categorical exclusion of evidence obtained through entrapment. Although 73.2% of respondents indicated that increasing the effectiveness of local legislation is currently unnecessary, the doctrinal analysis suggests a normative gap that must be addressed to ensure procedural fairness. Consequently, the study recommends revising UAE legislation to clearly define the permissible scope of undercover activity, mandate prosecutorial or judicial oversight, and codify the exclusionary rule. Furthermore, implementing comprehensive training programs focused on legal ethics and human rights is essential to maintain public confidence in the justice system while preserving operational efficacy.*

1 INTRODUCTION

In contemporary criminal justice systems, undercover operations have emerged as one of the most sophisticated and indispensable investigative tools, particularly in the escalating realm of cybercrime.¹ This form of criminality is defined by its transnational reach, reliance on advanced technologies, and the pervasive anonymity it affords perpetrators. Within this landscape, electronic communication serves as the primary medium for organizing and executing illicit activities. To counter these challenges, undercover agents are deployed to engage suspects via encrypted emails, text messages, and specialized online platforms. These

1 See more in Almudena Valiño Ces, 'The Importance of the Computer Undercover Agent as an Investigative Measure Against Cybercrime: A Special Reference to Child Pornography Crimes' in Francisco António Carneiro Pacheco de Andrade, Pedro Miguel Fernandes Freitas and Joana Rita de Sousa Covelo de Abreu (eds), *Legal Developments on Cybersecurity and Related Fields* (Springer 2024) 145.

agents frequently adopt fictitious identities, ranging from minors in exploitation cases to cybercriminals infiltrating hacker syndicates, to penetrate criminal networks from within. While operations often begin in the virtual sphere, they frequently transition into physical encounters, significantly increasing the complexity of the investigative process.

A landmark illustration of an effective undercover cyber investigation occurred in 1999, involving the Seattle-based Internet Service Provider, Speakeasy Network.² Targeted by hackers using Russian IP addresses, the company faced extortion after perpetrators threatened to expose thousands of stolen customer credit card details and passwords. In response, the Federal Bureau of Investigation (FBI) launched a multifaceted operation utilizing audio and video surveillance, keystroke monitoring, sniffing devices, and the creation of "front" companies and fake networks. This strategy led to the successful conviction of the suspects on federal charges of computer fraud, mail fraud, and conspiracy, demonstrating the power of covert tactics in dismantling sophisticated criminal schemes.

Yet, despite these successes, undercover operations precipitate profound legal and ethical dilemmas. The core challenge lies in balancing legitimate law enforcement objectives, namely, the detection and prevention of crime, with the preservation of fundamental human rights. Central to this tension are the right to due process and protection against entrapment. A critical question persists: do covert tactics risk crossing the boundary into unlawful inducement or the fabrication of criminal conduct? Such practices threaten to compromise judicial fairness, undermine constitutional guarantees, and erode the integrity of the justice system. These concerns are amplified in cyber and financial crime investigations, where the intangible nature of digital evidence increases the risk of procedural irregularities and abuses of power.³

The significance of this research lies in the urgent need to clarify the legal and procedural limits of undercover operations, with a specific focus on agents' liability and the safeguards needed to regulate their conduct. Because these operations are inherently shrouded in secrecy, they risk unintentionally compromising individual security and the broader public interest.⁴

Consequently, a precise delineation of permissible conduct, paired with robust judicial oversight, is essential to prevent abuses such as fabricated evidence or malicious accusations. By addressing these complexities, this study aims to analyze the legal standards that define the legitimacy of undercover practices while ensuring that public trust in judicial and law enforcement institutions is maintained.

2 *United States v Gorshkov* No CR00-550C (WD Wash, 23 May 2001) [2001] WL 1024026; Dorothy E Denning, 'Obstacles and Options for Cyber Arms Controls' (Arms Control in Cyberspace Conference, Heinrich Böll Foundation, Berlin, 29–30 June 2001) <<https://faculty.nps.edu/dedennin/publications/Berlin.pdf>> accessed 10 December 2025.

3 David S Wall, *Cybercrime: The Transformation of Crime in the Information Age* (2nd ed, Polity 2024).

4 Ishan Atrey, 'Cybercrime and its Legal Implications: Analysing the Challenges and Legal Frameworks Surrounding Cybercrime, Including Issues Related to Jurisdiction, Privacy, and Digital Evidence' (2023) 10(1) *International Journal of Research and Analytical Reviews* 183.

2 RESEARCH METHODOLOGY

The questionnaire was distributed to 321 specialists in the United Arab Emirates across the legal, financial, and cyber sectors. The sample consisted of 176 males (55 percent) and 145 females (45 percent), with a significant majority being non-Emirati professionals (71 percent).

The instrument's validity was confirmed by a panel of six experts in law, finance, and information technology, achieving an inter-rater agreement rate of 92 percent via the Cooper formula. Internal consistency was verified using a pilot sample forty-one of fifty-nine individuals, with correlation coefficients ranging from 0.647 to 0.773 with a significance level of $p < 0.01$.

Reliability was further established using the split-half method, Pearson's correlation, and the Spearman-Brown formula, yielding coefficients between 0.791 and 0.832. Data was analyzed using chi-squared tests to determine the statistical significance of expert responses.

3 THE DIFFERENCE BETWEEN AN UNDERCOVER AGENT AND AN INSTIGATOR

In legal literature and across national legislations, various terms are used to refer to individuals involved in covert law enforcement operations, including 'covert investigator', 'undercover agent', 'secret police', and 'undercover officer'.⁵ This terminological diversity reflects differing legal frameworks across jurisdictions, each prescribing unique conditions for the deployment and conduct of such individuals. As a result, practices in combating organized crime vary significantly, influencing both policing strategies and judicial approaches.⁶

From a criminal law standpoint, there is a crucial distinction between an undercover agent and an instigator (also known as an agent provocateur), primarily concerning their role in the commission of an offense.⁷

An undercover agent is a person authorized by law enforcement or judicial authorities to engage in secret surveillance or interaction with suspects, to detect crimes and collect evidence. These agents may utilize techniques such as impersonation or simulated transactions (for example, controlled delivery). However, their role is limited to observation; they must not incite, provoke, or cause criminal behavior. If the undercover agent does not

5 Štefan Kočan, 'The Agent in the Slovak Criminal Law' (2012) 12(12) *Kultura Bezpečnosti* 16.

6 Clive Harfield and Simon Bronitt, 'Undercover Investigation', *Elgar Encyclopedia of Crime and Criminal Justice* (2024) 714, doi:10.4337/9781789902990.

7 Joseph Jaconelli, 'Incitement: A Study in Language Crime' (2018) 12 *Criminal Law and Philosophy* 245, doi:10.1007/s11572-017-9427-8.

interfere with the suspect's free will, they bear no criminal responsibility for the offense that is eventually committed.⁸

In contrast, an instigator or agent provocateur takes an active role in inducing, encouraging, or facilitating the commission of a crime. This form of participation transforms the instigator into a criminal accomplice, as they contribute directly to the formation of criminal intent or provide the means for executing the offense.⁹

This distinction becomes even more important in the context of incitement, a legally recognized inchoate offense. Incitement involves a person persuading or encouraging another person to commit a crime, regardless of whether the crime is ultimately committed. The essential element that differentiates incitement from mere preparation is a communicative act directed at provoking unlawful conduct.¹⁰ In many jurisdictions, such behavior is criminalized to prevent the creation of criminality through external provocation.

According to the majority of criminal law scholars, inciting an individual to commit a crime violates fundamental principles of justice and the ethical conduct expected of law enforcement officers. The state's role is to prevent crime and prosecute offenders, not to provoke criminal behavior. Consequently, when entrapment methods are used, they risk nullifying criminal proceedings for infringing on individual liberties protected by law and the Constitution.¹¹

Punishable entrapment occurs when an undercover officer originates the idea of the offense and deliberately implements it in the suspect's mind solely to catch them committing, or attempting to commit, the crime. Suppose the officer, through deception, offers to trade illicit goods (for example, narcotics or laundered money),¹² which directly leads to the commission of the crime. In that case, the officer may be deemed a participant if a causal link exists between their conduct and the offense.¹³

This legal principle extends to undercover agents, whose actions are legally attributed to law enforcement and may thus trigger the same consequences as entrapment conducted by officers.¹⁴ While these theoretical distinctions between detection and instigation are foundational to criminal law, their application is particularly challenging in the context of

8 David Ormerod, Karl Laird and Matthew Gibson, *Criminal Law* (17th edn, OUP 2024).

9 Jeremy Horder, *Ashworth's Principles of Criminal Law* (10th edn, OUP 2022).

10 Ormerod, Laird and Gibson (n 8).

11 Bruce Hay, 'Sting Operations, Undercover Agents, and Entrapment' (2005) 70(2) *Missouri Law Review* 22, doi:10.2139/ssrn.469960.

12 Eldad Bar Lev, 'Money Laundering — White Collar Crimes in Israel' (2022) 5(2) *Israel Journal of Financial and Monetary Economics* 125, doi:10.33545/26175754.2022.v5.i2b.158. Recent case-focused empirical research relevant for comparative analysis.

13 Elizabeth Boison and Peter D Hardy (eds), *Anti-Money Laundering 2024: Risks, Due Diligence, and Compliance in an Evolving Legal World* (Practising Law Institute 2024). Current practice guide on compliance and AML risk management.

14 RE Bell, 'Undercover Sting Operations in Money Laundering Cases' (2001) 4(4) *Journal of Money Laundering Control* 333, doi:10.1108/eb027283.

money laundering, where the inherent secrecy and structural complexity of financial transactions often necessitate a more proactive investigative approach.

Consequently, the use of undercover agents in money laundering investigations raises key legal and doctrinal concerns:¹⁵

To what extent does the undercover agent influence the actual commission of the crime?

Can the agent be legally considered a participant and, thus, held liable alongside the principal perpetrators?

Proponents of undercover operations argue that economic crimes, such as money laundering, warrant the same investigative rigor as violent or political offenses. Modern money laundering schemes are extremely secretive; conventional methods often fall short in penetrating these networks. Undercover agents, by posing as investment facilitators or brokers of illicit funds, can gain the suspect's trust and execute arrests in flagrante delicto, thereby preserving the integrity of the evidence and preventing harm.¹⁶

Advocates assert that individual liberties must be balanced against society's right to security, especially in the financial domain. Undercover work remains indispensable to uncovering hidden illicit activity and building legally sound prosecutions.¹⁷

Critics argue that such undercover methods are inherently problematic: they may unduly influence the suspect's free will, manufacturing criminal intent that would not otherwise exist. This diminishes the credibility of evidence, especially if the agent is motivated by ulterior motives, such as financial gain or personal vendetta.¹⁸

Furthermore, this practice may distort the principle of flagrante delicto, particularly if the arrest is deliberately orchestrated, thus questioning legal and procedural legitimacy. Opponents contend that the agent becomes an active accomplice and, under certain statutes, is criminally liable. There is also an elevated risk of entrapping innocent individuals, undermining due process, and fostering distrust in the system.¹⁹

Given that that such practices may prioritize individual interests at the expense of personal freedoms, the supportive view remains, in our opinion, the more convincing. However, this approach must be refined by implementing strict legal safeguards to ensure that fundamental rights and individual liberties are not infringed.

15 Hay (n 11).

16 Bell (n 14).

17 B Grant Stitt and Gene G James, 'Entrapment and the Entrapment Defense: Dilemmas for a Democratic Society' (1984) 3(1) Law and Philosophy 111, doi:10.1007/bf00211226.

18 Doron Goldbarsht, Louis de Koker and Jamie Ferrill (eds), *The Financial War on Crime and Terrorism: Opportunities and Challenges* (Springer Cham 2025) doi:10.1007/978-3-032-06360-1. Latest interdisciplinary examination of global financial crimes, AML policy, and enforcement challenges.

19 Daniel J Hill, Stephen K McLeod and Attila Tanyi, 'The Concept of Entrapment' (2018) 12(4) Criminal Law and Philosophy 539, doi:10.1007/s11572-017-9436-7.

4 LEGAL FRAMEWORK IN THE EUROPEAN UNION AND THE UAE

The United Arab Emirates legislator provides foundational definitions for covert operations in Article 1 of the Federal Decree-Law on Anti-Money Laundering, establishing a clear distinction between the movement of illicit assets and the role of the investigator:

Controlled Delivery - a way in which the competent authority allows under its control the entrance of illegal or suspicious funds or proceeds of crimes to the lands of the State, their passage, transit, or exiting the State to investigate a crime and determine the identity of the perpetrators.²⁰

Secret Operation - a way of investigation and examination by which a judicial officer assumes an identity other than his real one or performs a hidden or false role to obtain evidence or information relevant to the crime.

European legislation does not provide a single unified definition of the undercover agent, but through various directives and jurisprudence, particularly under the European Convention on Human Rights and Directive 2014/41/EU on the European Investigation Order (EIO), a clear legal understanding has developed.²¹ An undercover agent in the European legal context is generally defined as:²²

An individual acting on behalf of law enforcement authorities, who assumes a false identity or performs a concealed or fictitious role to obtain evidence or information relevant to a suspected crime, without disclosing their real identity.²³

The UAE judiciary distinguishes between the creation of criminal intent in the accused's mind (i.e., entrapment), and merely detecting or observing a crime already intended or committed by the suspect.

In one landmark judgment, the Court held:

According to Article 30 of the UAE Code of Criminal Procedure, the mission of a judicial police officer is to uncover crimes and ensure the punishment of their

20 Federal Decree by Law No (10) of 2025 'Regarding Anti-Money Laundering, and Combating the Financing of Terrorism and Proliferation Financing' [2025] Official Gazette 808.

21 Council of the EU, 'Evaluation Report on the 10th Round of Mutual Evaluations on the Implementation of the European Investigation Order (EIO): Report on the Netherlands' (15 February 2024) <<https://www.parlament.gv.at/gegenstand/XXVII/EU/171172>> accessed 10 December 2025.

22 Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 Regarding the European Investigation Order in Criminal Matters [2014] OJ L 130/1.

23 "Journal of Money Laundering Control" issue 5 for 2024 includes multiple research articles on money laundering patterns and AML, including UAE-related analysis. See, for example: Sadia Nazar, Abdul Raheman and Muhammad Anwar ul Haq, 'The Magnitude and Consequences of Money Laundering' (2024) 27(5) *Journal of Money Laundering Control* 808, doi:10.1108/JMLC-09-2022-0139; Mariam Aljassmi and others, 'An Analysis of the Determinants of Money Laundering in the United Arab Emirates (UAE)' (2024) 27(5) *Journal of Money Laundering Control* 858, doi:10.1108/JMLC-09-2023-0150.

perpetrators. Therefore, any act carried out in pursuit of this objective is deemed valid and legally effective, provided that the officer does not play a role in creating the crime or inciting its commission, and as long as the suspect's will remains free and uncoerced. There is no fault in the judicial officer resorting, within these bounds, to sophisticated methods that facilitate the detection of crime, so long as they do not conflict with public morals.²⁴

In another notable ruling, the Court clarified:

"It is well-established that judicial police officers and their assistants cannot be faulted for the investigative tactics they employ, including the use of deception or impersonation, if such methods are necessary to earn the trust of suspects and expose ongoing criminal conduct. The officers' passive acquiescence or cooperation with criminals, gathering evidence, or making arrests, is not considered entrapment as long as the suspect's will remains free and manipulated, and no active incitement occurred."²⁵

In contrast, if the police actively instigate or fabricate a criminal scenario, as occurred in the case where the Dubai International Narcotics Control Department induced the accused to commit a crime in Pakistan by promising him a monetary reward to be collected from an anonymous person in Abu Dhabi, then such actions fall outside the scope of legitimate investigation. In this case, the accused was merely a tool in an operation orchestrated entirely by law enforcement.

Furthermore, the arrest and search procedures carried out based on a circular issued by the Dubai International Narcotics Control Department were declared invalid. Neither the Dubai nor Abu Dhabi Anti-Narcotics Departments had obtained judicial authorization, and the arrest was triggered solely by a customs officer's suspicion. This procedural breach rendered the search and arrest unlawful.

The challenges observed in these domestic cases resonate in sophisticated ways with international standards. Undercover operations within the European Union are primarily governed by national laws but must comply with overarching directives and obligations under the European Convention on Human Rights. The European Investigation Order provides that covert investigations may be authorized by a competent authority, provided they are permitted under the executing state's national law.

Undercover operations within the European Union are primarily governed by national laws but must comply with overarching directives and obligations under the European Convention on Human Rights. Article 29 of Directive 2014/41/EU provides: 'An EIO may be issued to carry out covert investigations, including surveillance and undercover

24 Case 562/2019 (Abu Dhabi Court of Cassation (Criminal Chamber), 30 June 2019).

25 Case 343/2013 (Abu Dhabi Court of Cassation (Criminal Chamber), 28 May 2013).

activities, provided such activities are permitted under the national law of the executing State and authorized by a competent authority'.²⁶

The European Court of Human Rights has consistently held that the use of undercover agents must not cross the line from legitimate investigation into impermissible entrapment. While landmark cases such as *Teixeira de Castro v. Portugal*, *Ramanauskas v. Lithuania*, and *Khudobin v. Russia* are frequently cited, their true significance lies not merely in their outcomes but in the standard they establish for assessing state responsibility under Article 6 of the European Convention on Human Rights.²⁷

The Court has developed a two-tiered analytical framework to determine whether entrapment has occurred: a substantive test and a procedural test.

Under the substantive approach, the Court examines whether the criminal activity was predominantly the result of state intervention. In *Teixeira de Castro v. Portugal*,²⁸ the absence of prior suspicion or criminal record was decisive; the undercover officers did not uncover an existing criminal enterprise but instead created the offense themselves. The Court emphasized that law enforcement must limit its role to detecting ongoing criminal conduct rather than generating criminal intent.

In *Ramanauskas v. Lithuania*,²⁹ the Court refined this standard by stressing that, even where a public official occupies a position vulnerable to corruption, the initiative must originate with the suspect. The mere offer of an opportunity by an undercover agent, particularly where no prior intent is demonstrated, was deemed sufficient to undermine the fairness of the proceedings.

Applied to money laundering³⁰ investigations, this principle has profound implications. Because money laundering frequently operates through lawful financial transactions, an undercover agent who proposes laundering mechanisms, structures transactions, or introduces illicit funds may effectively implant the criminal intent, rather than reveal it. In such cases, the agent ceases to be an investigative tool and becomes a catalyst for criminality.

Beyond the suspect's intent, the ECtHR places equal weight on procedural safeguards. In *Khudobin v. Russia*,³¹ the Court reaffirmed that where authorities initiate or

26 Directive 2014/41/EU (n 22).

27 Council of Europe, *European Convention on Human Rights: as amended by Protocols Nos 11, 14 and 15; supplemented by Protocols Nos 1, 4, 6, 7, 12, 13 and 16* (ECHR 2013) <https://www.echr.coe.int/documents/d/echr/convention_eng> accessed 10 December 2025.

28 *Teixeira de Castro v Portugal* App no 25829/94 (ECtHR, 9 June 1998) <<https://hudoc.echr.coe.int/?i=001-58193>> accessed 10 December 2025.

29 *Ramanauskas v Lithuania* App no 74420/01 (ECtHR, 5 February 2008) <<https://hudoc.echr.coe.int/?i=001-84935>> accessed 10 December 2025.

30 Anna Popik-Mazur, 'A Systematic Literature Review of Illicit Financial Flows and Money Laundering: Current State of Research and Estimation Methods' (2025) 47(1) *Journal of Economics and Management* 257, doi:10.22367/jem.2025.47.11.

31 *Khudobin v Russia* App no 59696/00 (ECtHR, 26 October 2006) <<https://hudoc.echr.coe.int/?i=001-77692>> accessed 10 December 2025.

manipulate criminal conduct, the absence of effective judicial supervision renders the trial fundamentally unfair.

Article 6 is violated not simply because entrapment occurs, but because domestic courts fail to scrutinize the legality and necessity of undercover operations. The Court requires:

- 1) Prior judicial authorization,
- 2) Clear operational limits on agents' conduct,
- 3) Effective judicial review of allegations of entrapment,
- 4) The possibility of excluding tainted evidence.

Without these safeguards, the imbalance between the prosecution and the defense becomes structural, undermining the equality of arms and the integrity of the trial process.

The distinction between lawful infiltration and unlawful instigation constitutes the core analytical challenge in undercover operations.

Legitimate infiltration involves passive participation in an existing criminal scheme, allowing authorities to observe and document illicit conduct. Instigation, by contrast, entails influencing the suspect's free will, escalating criminal behavior, or fabricating opportunities that would not otherwise exist.³²

In money laundering cases, this line is particularly fragile. Financial expertise, regulatory complexity, and asymmetrical knowledge enable undercover agents to shape transactions in ways the suspect may not have independently conceived. ECtHR jurisprudence makes clear that when the state engineers such conduct, it cannot subsequently rely on it to secure a conviction without violating Article 6.³³

The ECtHR's approach frames entrapment not merely as a matter of investigative misconduct but as a structural violation of the right to a fair trial. The state cannot simultaneously act as the architect of the offense and the arbiter of guilt. Evidence obtained through entrapment is incompatible with the principles of adversarial proceedings and procedural fairness.

Accordingly, the liability of undercover agents is not confined to disciplinary or internal accountability; it extends to the admissibility of evidence and the legitimacy of the prosecution as a whole.

In contrast to the European model, UAE legislation and jurisprudence have yet to develop a comprehensive doctrinal framework distinguishing infiltration from entrapment. While undercover techniques are implicitly tolerated in financial crime investigations, the absence

32 Wall (n 3). Comprehensive criminology text on cybercrime and emerging digital financial offenses.

33 *Lukanov v Bulgaria* App no 21915/93 (ECtHR, 20 March 1997) <<https://hudoc.echr.coe.int/eng?i=001-58022>> accessed 10 December 2025.

of explicit standards concerning prior suspicion, proportionality, and judicial oversight raises concerns regarding procedural fairness.

Unlike ECtHR jurisprudence, UAE courts do not systematically examine whether the criminal intent originated with the suspect or was induced by state agents. This divergence underscores a normative gap between European human rights standards and the current Emirati approach, particularly in complex financial crimes such as money laundering.

The jurisprudence of the European Court of Human Rights, particularly in the case of *Teixeira de Castro v. Portugal*,³⁴ provides practical standards for addressing key legal gaps in the UAE’s law on covert operations. It requires prior, objective suspicion, thus limiting the arbitrary use of covert methods in the UAE. It also explicitly prohibits the entrapment of suspects, helping to define the line between legitimate investigation and unlawful incitement.

Furthermore, the European Court of Human Rights emphasizes judicial oversight, places the burden of proof on the public prosecutor, and underscores the need for a clear and preventable legal framework.³⁵ These principles can strengthen UAE law by clarifying licensing criteria, limiting discretionary power, and improving procedural fairness in anti-money laundering investigations.

5 RESEARCH RESULTS AND DISCUSSION

The study employed a comprehensive survey design to collect data from a diverse professional landscape in the United Arab Emirates.

The research sample comprised 321 individuals from the local community, specifically targeting professionals in the legal, financial, and information technology sectors. The demographic and professional distribution is detailed in the table below.

Table 1. Distribution of Study Sample Characteristics

Study Sample	Number	Percentage
Male	176	55%
Female	145	45%
Emirati	93	29%
Non-Emirati	228	71%

34 *Teixeira de Castro v Portugal* (n 28).

35 ECtHR, *Guide on Article 6 of the European Convention on Human Rights: Right to a Fair Trial (Criminal Limb)* (Council of Europe 2022).

Study Sample	Number	Percentage
Legal Sector	176	55%
Financial Sector	132	45%
Information Sector	13	4%
Total	321	100%

The results indicate a balanced gender distribution, while participation by non-Emirati professionals is notably higher, reflecting the international nature of the state's financial and legal workforce.

To ensure high academic standards, the questionnaire underwent rigorous validation:

- 1) *Content Validity*: The criteria list was developed based on existing literature and approved by six reviewers specializing in law, finance, and information. Feedback regarding wording and dialogue formats was integrated into the final version.
- 2) *Inter-rater Agreement*: Using the Cooper formula, the instrument achieved an agreement rate of 92 percent among experts and arbitrators.
- 3) *Internal Consistency*: A pilot study of 59 individuals was conducted. As shown in Table 2, correlation coefficients ranged from 0.647 to 0.763, all significant at the 0.01 level, confirming strong internal consistency.
- 4) *Reliability*: Reliability was established using the split-half method, Pearson's correlation, and the Spearman-Brown formula. Reliability coefficients for the three main topics ranged from 0.791 to 0.832, indicating high stability.

To achieve the study's objectives, the researchers relied on numerous relevant studies and prior research and consulted a diverse group of specialists and reviewers to develop the criteria list. The criteria list was approved by six reviewers specializing in law, finance, and information. The reviewers suggested several necessary modifications, including rewording, adding, and modifying dialogue formats, and revising other criteria. The researchers carefully incorporated all feedback to arrive at the final version of the study's criteria.

The researchers carefully prepared the questionnaire according to several stages, as follows:

- 1) Defining the questionnaire's objective
- 2) Calculating the questionnaire's validity: The following procedures were considered:
- 3) The suitability of the instrument's (questionnaire's) measurement criteria.
- 4) The feasibility of preparing and publishing the questionnaire electronically via Google Drive and analyzing it statistically.

- 5) Assessing the validity of the questionnaire: To ensure the validity of the measurement instrument (questionnaire), the researchers administered the questionnaire to six experts and arbitrators specializing in law, finance, and information technology. Cooper's formula was applied to calculate the inter-rater agreement rate, which reached 92 %, a high percentage indicating the suitability of the measurement instrument (questionnaire).

The researchers verified the instrument's (questionnaire) internal consistency using a preliminary pilot sample of fifty-nine individuals outside the main study sample. This was done by calculating the overall correlation coefficients between each questionnaire item and the overall score for its associated dimension, as illustrated in Table 2 below.

Table 2. Correlation Coefficients Between Questionnaire Criteria

Statement	Correlation Coefficient Between Statements and Axis
1	.685**
2	.647**
3	.763**

(**) Significant at the (0.01) level

Table 2 shows that the correlation coefficients between all questionnaire statements and the total score for each domain, which ranged from 0.647 to 0.773 and were all statistically significant at the 0.01 level. Therefore, it is clear that the correlation coefficients between the questionnaire statements and the total score are significant at the 0.01 level. This confirms the strong correlation between all questionnaire statements and criteria, and that they possess a high degree of internal consistency.

Reliability of the measurement instrument (questionnaire) is one of the most important factors contributing to dependability and trust. The reliability of the measurement instrument (questionnaire) was calculated using the split-half method, in addition to determining the simple correlation coefficient using Pearson's correlation coefficient. This correlation was consistently corrected using the Spearman-Brown formula, and then further corrected using the Guttman formula, as shown in Table 3.

Table 3. Values of the Questionnaire Reliability Coefficient Using the Split-Half Method

Questionnaire Topic	
Number	Pearson's Reliability Coefficient
1	0.791
2	0.817
3	0.832

The values shown in Table 3 indicate that the measurement instrument (questionnaire) demonstrates statistically significant reliability. High stability among the study sample, which means that all values are appropriate, and therefore reliable and indicative of the validity of the measurement tool (questionnaire) for application.

Table 4. The Importance of Using a Secret Agent Leads to a Reduction in Financial Crimes in the UAE

The Importance of Using a Secret Agent Leads to a Reduction in Financial Crimes in the UAE: Frequency Percentage

Degree	Number	Percent
Very Widely	97	30,2%
Very Widely	149	46.4%
Somewhat	51	15.9%
Lowly	18	5,6%
Very Low	6	1,9%
Total	321	100%

The responses of the study sample regarding the importance of using a secret agent to reduce in financial crimes in the UAE indicate a high level of importance, approximately 76.5%. A chi-squared test on the study sample yielded a p-value of 0.043, which is less than the 0.05 threshold. This indicates that the differences in percentages are statistically significant, suggesting that the study sample variable affects the importance of using a secret agent to reduce financial crimes in the UAE.

Table 5. The Importance of Using a Secret Agent Leads to a Higher Level of Anti-Money Laundering in the UAE

The Importance of Using a Secret Agent Leads to a Higher Level of Anti-Money Laundering in the UAE: Frequency Percentage

Degree	Number	Percent
Very Widely	107	33.3%
Very Widely	153	47.6%
Somewhat	47	14.6%
Lowly	11	3.4%
Very Low	3	.93 %
Total	321	100%

The responses of the study sample regarding the importance of using a secret agent to achieve a higher level of anti-money laundering in the UAE indicate that its use is highly important, at approximately 81%. A chi-squared test on the study sample yielded a p-value of 0.047, which is less than the 0.05 threshold. This indicates that the differences in percentages are statistically significant, suggesting that the study sample variable affects the importance of using a secret agent, leading to a higher level of anti-money laundering in the UAE.

Table 6. Is there a need to increase the effectiveness of local legislation in the UAE to combat financial and cybercrimes?

Is there a need to increase the effectiveness of local legislation in the UAE to combat financial and cybercrimes? Frequency Percentage

Degree	Number	Percent
Very Widely	27	8,4%
Very Widely	43	13.4%
Somewhat	16	4,9%
Lowly	175	54.5%
Very Low	60	18.7%
Total	321	100%

The responses of the study sample regarding the need to increase the effectiveness of local legislation to combat financial and cybercrimes in the UAE indicate that this is unnecessary

for approximately 73.2% due to insufficient development. A chi-squared test on the study sample yielded a p-value of 0.39, which is less than the 0.05 threshold. This indicates that the differences in percentages are statistically significant, suggesting that the study sample variable affects the perceived need to increase the effectiveness of local legislation to combat financial and cybercrimes in the UAE.

The study results can be divided into three levels:

1. The responses of the study sample regarding the importance of using confidential agents in reducing the rate of financial crimes within the UAE show a high level of importance, approximately 76.5%.
2. The responses of the study sample regarding the importance of using confidential agents in increasing the effectiveness of anti-money laundering efforts within the UAE show a high level of importance, approximately 81%.
3. The responses of the study sample regarding the need to increase the effectiveness of local legislation to combat financial and information crimes within the UAE show that increasing effectiveness is unnecessary, approximately 73.2%, due to a lack of development.

The study reveals a significant professional consensus regarding the operational utility of undercover tactics, with 81 percent of specialists affirming their importance for anti-money laundering effectiveness. However, the finding that 73.2 percent of respondents view the expansion of local legislation as unnecessary suggests a complex professional stance. This skepticism likely stems from a perceived "lack of development" or a preference for the stability of current legal structures over the introduction of new, potentially complex regulations. While the chi-squared test for this legislative variable yielded a p-value of 0.39, indicating that these specific percentages are not as statistically significant as the operational findings, the high frequency of "low" responses highlights a cautious attitude among practitioners toward rapid legislative evolution.

This tension underscores the research's central theme: while undercover agents are indispensable for combating sophisticated financial crimes, their "responsibility" must be managed within a framework that practitioners can trust and understand. The challenge for the United Arab Emirates is to bridge this gap by refining existing laws, rather than merely expanding them, to incorporate the robust oversight and human rights protections found in international standards.

6 CONCLUSIONS

The analysis of the legal framework surrounding the role of undercover agents in the UAE Federal Decree-Law on Anti-Money Laundering reveals that undercover operations are legally permissible provided the suspect's free will is preserved and the agent does not induce, provoke, or fabricate criminal behavior. Judicial precedents confirm that

investigative techniques such as controlled deliveries, impersonation, and covert surveillance are lawful when employed to uncover pre-existing criminal intent. Nevertheless, ambiguities remain in distinguishing legitimate detection from unlawful instigation, and case law reveals inconsistencies in its application, creating potential legal uncertainty, particularly when an agent's conduct appears to contribute directly to the commission of the offense.

Despite adherence to the principle that investigative methods should not compromise a suspect's autonomy, in practice, the threshold of "free will" is often breached. Even in the absence of explicit threats or coercion, an undercover agent who actively proposes, facilitates, or simulates a criminal act risks becoming an instigator rather than a passive observer, with ethical and legal implications. This doctrinal inconsistency is compounded by the lack of comprehensive legislative or procedural safeguards comparable to European standards. The European Court of Human Rights, through cases such as *Teixeira de Castro v. Portugal* and *Ramanauskas v. Lithuania*, emphasizes judicial oversight, proportionality, and the exclusion of evidence obtained through entrapment, offering a more robust framework than currently available under UAE law.

To address these challenges, it is recommended that UAE legislation be revised to clearly define the permissible scope of undercover operations and to distinguish lawful investigative activity from unlawful instigation. Judicial or prosecutorial pre-authorization should be made mandatory before initiating any covert operation. An independent oversight mechanism should be established to monitor undercover agents' conduct and ensure compliance with principles of legality, proportionality, and due process. The exclusionary rule should also be codified to prevent the use of evidence obtained through entrapment or undue influence over a suspect's autonomy.

Furthermore, law enforcement agencies should implement comprehensive training programs for officers authorized to conduct undercover investigations, with a strong focus on legal ethics, human rights, and operational restraint. Encouraging the Emirati judiciary to incorporate comparative international jurisprudence, particularly regarding human rights standards, can enhance the protection of individual liberties and strengthen public confidence in the criminal justice system.

By implementing these measures, the UAE can ensure that undercover operations remain effective in combating money laundering while upholding legal, ethical, and constitutional standards, balancing operational effectiveness with the protection of fundamental rights.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

ПРАВОВІ ОБМЕЖЕННЯ ТА ПРОЦЕДУРНІ ГАРАНТІЇ ТАЄМНИХ ОПЕРАЦІЙ У РОЗСЛІДУВАННЯХ ЩОДО БОРЬБИ З ВІДМИВАННЯМ КОШТІВ: ПЕРСПЕКТИВА ОАЕ

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АНОТАЦІЯ

Вступ. Таємні операції стали незамінними в боротьбі з фінансовими та кіберзлочинами, зокрема відмиванням грошей та експлуатацією цифрових фінансових платформ. В Об'єднаних Арабських Еміратах (ОАЕ) співробітники судової поліції уповноважені законом використовувати методи роботи під прикриттям, зокрема маскування, видавання себе за іншу особу, конфіденційних інформаторів та спостереження за транзакціями, для виявлення незаконної діяльності, нібито поважаючи автономію підозрюваних. Незважаючи на ці положення, зберігаються суттєві неточності у розмежуванні законного виявлення від незаконного підбурювання, що створює ризик для належної правової процедури та допустимості доказів. Порівняльна судова практика, зокрема Європейського суду з прав людини (ЄСПЛ), підкреслює необхідність судового нагляду, пропорційності та надійних механізмів боротьби з провокацією, що пропонує життєво важливу основу для модернізації правової практики ОАЕ.

Методи. У дослідженні було використано описово-аналітичний дизайн дослідження, що поєднує кількісні та якісні методології. Структурована анкета була розповсюджена серед 321 спеціаліста, що охоплюють юридичний, фінансовий та кіберсектори ОАЕ, щоб оцінити сприйняття експертів щодо операційної ефективності та етичних наслідків діяльності таємних агентів. Одночасно було проведено доктринальний аналіз Федерального декрету-закону ОАЕ про боротьбу з відмиванням грошей. Він містить ретельне вивчення законодавчих положень, судових прецедентів та порівняльну оцінку зі стандартами Європейського суду з прав людини та директивами ЄС для виявлення операційних, етичних та правових прогалів у чинній системі ОАЕ.

Результати та висновки. Дослідження демонструє, що стратегічне використання агентів під прикриттям значно покращує виявлення та запобігання відмиванню грошей в ОАЕ. Кількісні результати підтверджують високий консенсус експертів: 76,5% фахівців вважають конфіденційних агентів життєво важливими для зменшення фінансових злочинів, а 81% пов'язують їхнє залучення з підвищенням ефективності боротьби з відмиванням грошей (AML). Однак у дослідженні також було виявлено критичні правові та етичні проблеми, особливо коли слідча тактика ризикує скасовувати вільну волю підозрюваного або створювати можливості для злочину. Порівняльний аналіз показує, що судова практика Європейського суду з прав людини забезпечує більш надійну основу для забезпечення належної правової процедури, наголошуючи на обов'язковому попередньому судовому дозволі, пропорційності та категоричній недопустимості доказів, отриманих за допомогою провокації. Хоча 73,2% респондентів вказали, що підвищення ефективності місцевого законодавства наразі не є необхідним, доктринальний аналіз свідчить про нормативну прогалину, яку необхідно усунути для забезпечення процесуальної справедливості. Отже, автори дослідження рекомендують переглянути законодавство ОАЕ, щоб чітко визначити допустимий обсяг діяльності під прикриттям, забезпечити прокурорський або судовий нагляд та кодифікувати правило недопустимості доказів. Крім того, впровадження комплексних навчальних програм, зосереджених на юридичній етиці та правах людини, є важливим для підтримки довіри громадськості до системи правосуддя, одночасно зберігаючи операційну ефективність.

Ключові слова. Боротьба з відмиванням грошей; агенти під прикриттям; провокація; законодавство Об'єднаних Арабських Еміратів; агент-провокатор; належна правова процедура; розслідування кіберзлочинів; судовий нагляд; кримінальна відповідальність.

ABSTRACT IN ARABIC*

مقال بحثي

القيود القانونية والضمانات الإجرائية للعمليات السرية في تحقيقات مكافحة غسل الأموال: منظور دولة الإمارات العربية المتحدة

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الملخص:

أصبحت العمليات السرية ضرورية في مكافحة الجرائم المالية والإلكترونية، وتحديدًا غسل الأموال واستغلال المنصات المالية الرقمية. في دولة الإمارات العربية المتحدة، يتمتع ضباط الضبط القضائي، بصلاحيات قانونية لاستخدام أساليب العمل السري — بما في ذلك التنكر، وانتحال الشخصية والاستعانة بمصادر سرية، ومراقبة المعاملات — لكشف الأنشطة غير المشروعة مع الاحترام الظاهري لاستقلالية المشتبه بهم. على الرغم من هذه الأحكام، لا تزال هناك ضبابية في التمييز بين الكشف القانوني والتحرّض غير القانوني، مما يشكل خطراً على الإجراءات القانونية الواجبة ومقبولية الأدلة. يؤكد الفقه المقارن، ولا سيما أحكام المحكمة الأوروبية لحقوق الإنسان، على ضرورة الرقابة القضائية، والتناسب، وآليات مكافحة الإيقاع، مما يوفر إطاراً حيويًا لتحديث الممارسات القانونية في دولة الإمارات.

المنهجية:

استخدمت الدراسة تصميمًا بحثيًا وصفيًا تحليليًا، يدمج المنهجيات الكمية والنوعية. وُرِّع استبيان مُنظَّم على عينة من 321 متخصصاً من القطاعات القانونية والمالية والإلكترونية في دولة الإمارات لتقييم آراء الخبراء بشأن الفعالية التشغيلية والآثار الأخلاقية للعملاء السريين. بالتزامن مع ذلك، أُجري تحليل فقهيٍّ للمرسوم بقانون اتحادي بشأن مكافحة غسل الأموال في دولة الإمارات. وشمل ذلك فحصاً دقيقاً للأحكام القانونية، والسوابق القضائية، وتقييماً مقارناً بمعايير المحكمة الأوروبية لحقوق الإنسان وتوجيهات الاتحاد الأوروبي لتحديد الثغرات التشغيلية والأخلاقية والقانونية في الإطار الحالي.

*. The publication metadata in Arabic is presented as submitted by the authors.

النتائج والاستنتاجات:

تُظهر الدراسة أن الاستخدام الاستراتيجي للعملاء السريين يُعزز بشكلٍ كبير كشف ومنع غسل الأموال حيث اعتبر 76.5% من المتخصصين أنهم عنصرٌ حيويٌّ للحد من الجرائم المالية. ومع ذلك، يكشف البحث عن ثغراتٍ قانونية وأخلاقية عندما تتجاوز أساليب التحقيق إرادة المشتبه به الحرة. ويُظهر التحليل المقارن أن اجتهادات المحكمة الأوروبية لحقوق الإنسان تُوفر إطاراً أكثر متانة لحماية العدالة الإجرائية. وبناءً على ذلك، توصي الدراسة بمراجعة التشريعات الإماراتية لتحديد نطاق العمل السري بوضوح، وإلزام النيابة العامة أو القضاء بالإشراف المباشر، وتقنين قاعدة استبعاد الأدلة غير القانونية كما يُعدّ تنفيذ برامج تدريبية متخصصة في أخلاقيات المهنة وحقوق الإنسان أمراً بالغ الأهمية لضمان فعالية العمليات دون المساس بنزاهة النظام القضائي.

الكلمات المفتاحية:

مكافحة غسل الأموال؛ العملاء السريون؛ التحريض؛ تشريعات دولة الإمارات العربية المتحدة؛ العميل المحرض؛ الإجراءات القانونية الواجبة؛ تحقيق الجرائم الإلكترونية؛ الرقابة القضائية؛ المسؤولية الجنائية.