

Criminal protection of bank secrecy

Prepared by: Nour Mohammed Zakaria Adawi.

Supervisor: Dr. Jihad Al-Kisswani.

Abstract

Banks in their professional activities abide by the principle of banking secrecy, which is considered a requirement for banking. For many reasons, the first reason is directly related to the clients interest in preserving his , his secrets are subject to legal liability if they are violated. In addition, The second reason to safeguard the interests of banks in achieving their commercial objective ,the commercial objective, which banks has been established for it. Plus, the commercial objective ensures the achievement of public savings and maintain the principle of stability the general balance.

According that, the principle of banking secrecy was located mainly to protect the legitimate conciliator of the customer, it includes the interest of banks and the economy as a whole.

Despite, the positive effects of the principle of banking secrecy on public and private conciliators, it has found negative impact, The Obligation of restricted banks and the hang on customers of this principle and work on it. Enable the owner of illegal funds to exploit it to their advantages illegally. It contributed to cover up the suspicious operations in which, Banks become channel to p ass. It become necessary to an end to misuse of that principle.

In General, the criminal law characterized by the protectionism , but after the review of the legal texts from the national legislaation, we realized the legisalator did not surround the bank security with a strong fence of penal protection, its clarify through the representation of insufficiency of both sides in the criminal profection, the substantive legal rules and rules of procedure.

It requires to say the necessity to activitation of criminal protection for banking secrecy , by working on bath rules, through the promation of its substantive protecion, with adopt the banking secrecy system in its own law until avoid its negative effects , also, identify it generally and in detail.

Along with, determine the criteria off substantive rang for confidential information . In particular, serves the integrity of banking system. During ,organize the relative secrecy theory of banking, by attention the interst of the clients with the lifting of banking secret exclusively. As an exeception in special cases, while support and invitation between the interests of both parties, the public interst and client interest from the obligation of banking secret, whereas the banking of the relative public order.

Since the disclosure of the banking secret is difficult to prove. It is necessary to activate prosecution. Firstly, money laundering is being pursued, on the other hand, securities reservation the positive of the banking secret infleune. This is a compromise between public and private conciliator.