

## Money laundering

# Partial acquittal due to lack of subjective element

Par Katia Villard le 18 November 2025

In a ruling dated September 24, 2025, the Federal Court reiterated that the offense of money laundering requires intent on the part of the perpetrator, at least in the form of eventual intent, and that a single violation of anti-money laundering rules, even a significant one, does not in itself allow such intent to be inferred ([6B 1180/2023](#)).

The Office of the Attorney General of Switzerland accused a bank employee of opening bank accounts using false customer data and, between 2003 and 2012, carrying out transactions while knowing that the assets were of criminal origin (and clearly constituted bribes).

The Appeals Chamber of the Federal Criminal Court, in the second instance, acquitted the employee of most of the charges and convicted him of aggravated money laundering committed between July 8 and August 25, 2010.

The Office of the Attorney General of Switzerland appealed to the Federal Supreme Court, which ruled against it.

The judges at Mon Repos recalled the distinction (which can be difficult to establish) between conditional intent and negligence. If the perpetrator assumes, with a certain degree of probability, that the assets originate from a serious offense punishable by a significant penalty, but refrains from conducting any investigation to avoid discovering the truth, conditional intent is recognized. If the perpetrator simply fails to realize, through carelessness, that the assets are of criminal origin, the elements constituting the offense of money laundering are not met.

In this case, the Federal Court finds no fault with the reasoning of the Federal Criminal Court of Appeal that the breaches of due diligence obligations at the beginning of the banking relationship and at the time of certain transactions do not yet allow the conclusion that the defendant, who was only interested in his bonus, had any intention to deceive. The gross nature of the violations found even seems to benefit the defendant here, as the Court of Appeal found that the bank's control services did not take any action. Extrapolating slightly, one gets the impression that, if it had followed its reasoning through to its conclusion, the Court would have pointed out that if the defendant had wanted to deceive the control authorities, he would have done so in a more subtle manner.

The appeal judges also admit that the employee clearly did not want to know too much, without however inferring any possible intent to deceive.

The principle of *in dubio pro reo* only allows intent to be established from spring 2010 onwards, when the investigation established that the defendant was aware of the family relationship between the formal account holder (a straw man) and the main protagonist of the previous offense.

It should also be noted that the Federal Court upheld the Court of Appeal's decision to acquit the defendant for certain transactions in which he was no longer involved after being promoted to another position, even though he had continued to handle the disputed banking relationship. The indictment did not allow for an examination from the perspective of omission.

In conclusion, it should be noted that the establishment of the subjective element is a matter of fact-finding and that the Federal Court therefore ruled only from the perspective of arbitrariness.

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