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Course

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Class

Public policies to prevent and combat money laundering

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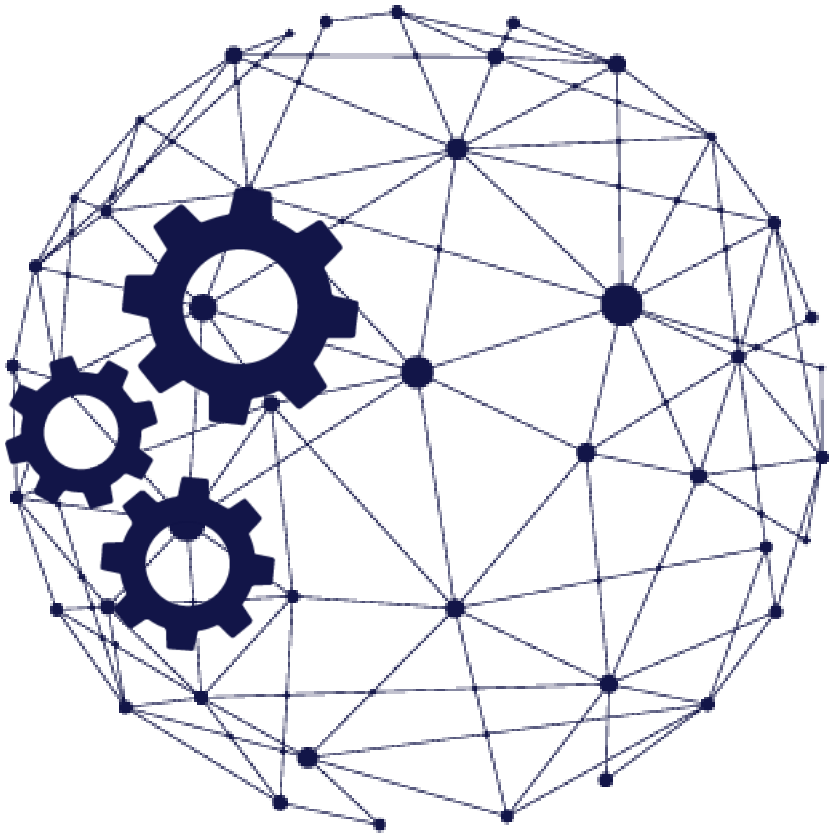
Introduction

This class is focused on public policy strategies to fight money laundering and its prevention.

The class aims to present the main indicators to assess whether the public policy to fight criminal assets is working and to evaluate the indicators of public policies to combat money laundering based on the main regulatory frameworks created to combat this phenomenon.



Concepts

Smurfing: the strategy for sending money by courier;

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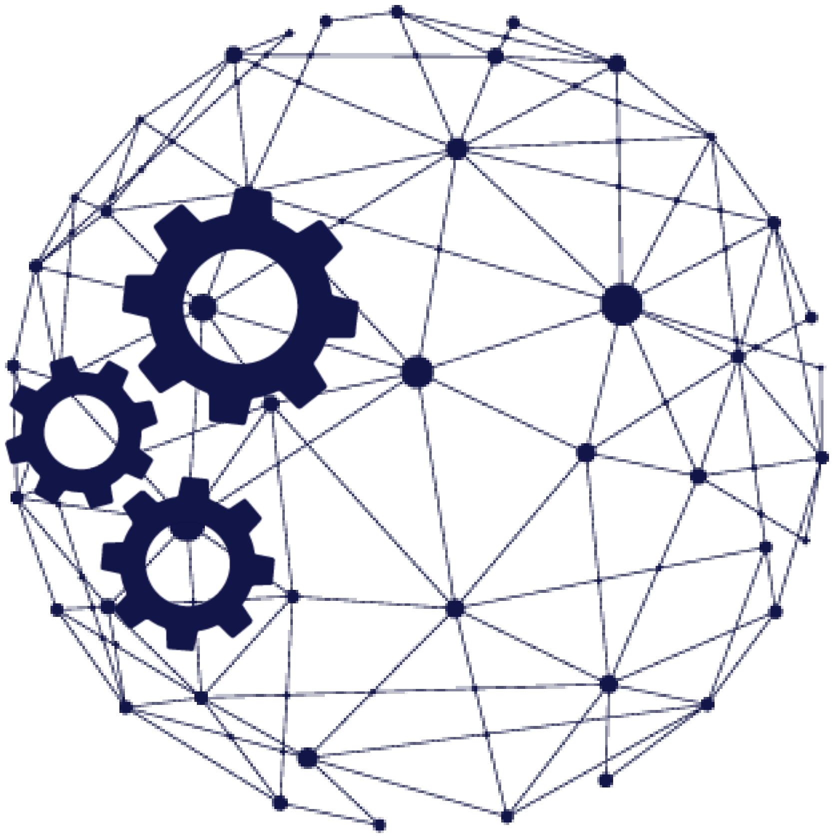
The fundamental problem in the development of public policies to prevent and fight money laundering is that the traditional methods used to combat the phenomenon have not achieved the expected results.

In this regard, **a different approach is proposed for the evaluation of public policies in which the decisions of the different levels of government and the analysis of information become relevant**. In this approach, it is a priority to identify the weaknesses of national and subnational governments in controlling money laundering. This identification process requires the joint work of different actors, as it is not enough just to analyze the consequences and effects of the phenomenon, but it is also necessary to identify the institutions and actors that can join forces in this process.



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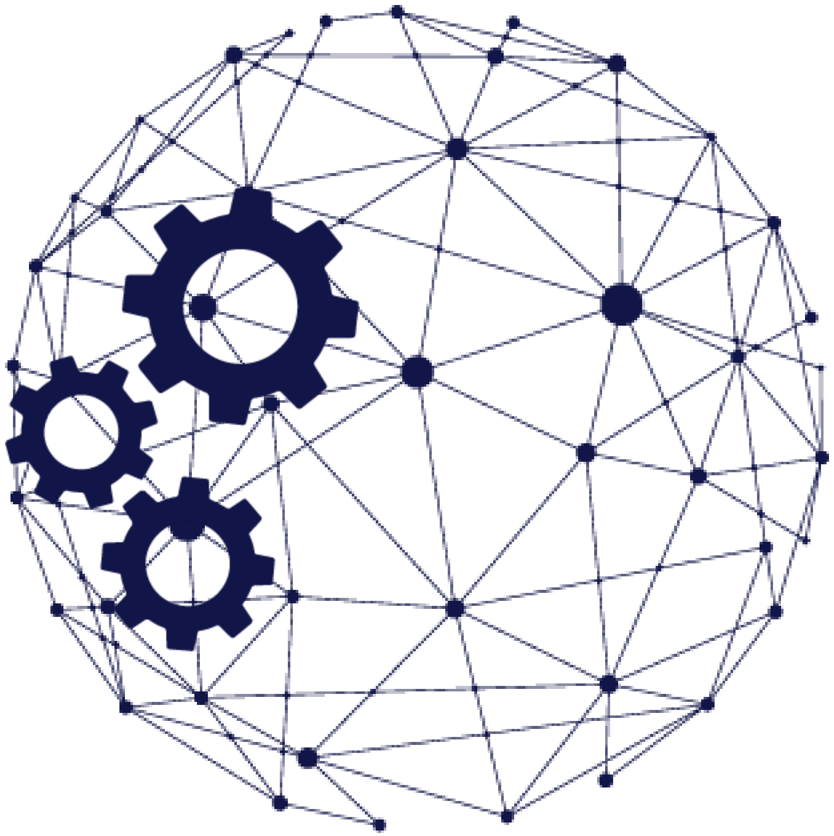
Internationally, several controls have been developed and implemented to solve the problem of preventing and fighting money laundering. For example, the **Foreign Currency Transactions Reporting Act**, the Agreement on Ethical Rules for the Due Diligence of Banks in Switzerland (1977), the Basel Declaration (1988), as well as the creation of the Financial Action Task Force (1989), and the Egmont Group (1995).

In addition to these regulatory frameworks, to prevent money laundering, it is increasingly important to identify state-specific risks and warning signs.



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Recent literature suggests some important factors for understanding the money laundering phenomenon, such as:

- **organized crime**, which generates a significant flow of economic resources that enter the legal economy through investments or the purchase and sale of goods;
- **corruption,** which, linked to increased criminality and socioeconomic instability, becomes a factor for crimes such as money laundering and a trigger for impunity;
- **perception of impunity**, which is directly related to the stability of judicial institutions;
- **location of geographic areas,** due to their impact on the political and financial stability of countries;
- **use of land and air routes and ports of entry and exit of goods and passengers**
- **use of cash or smurfing**, which makes the economy vulnerable due to the lack of traceability of resources;

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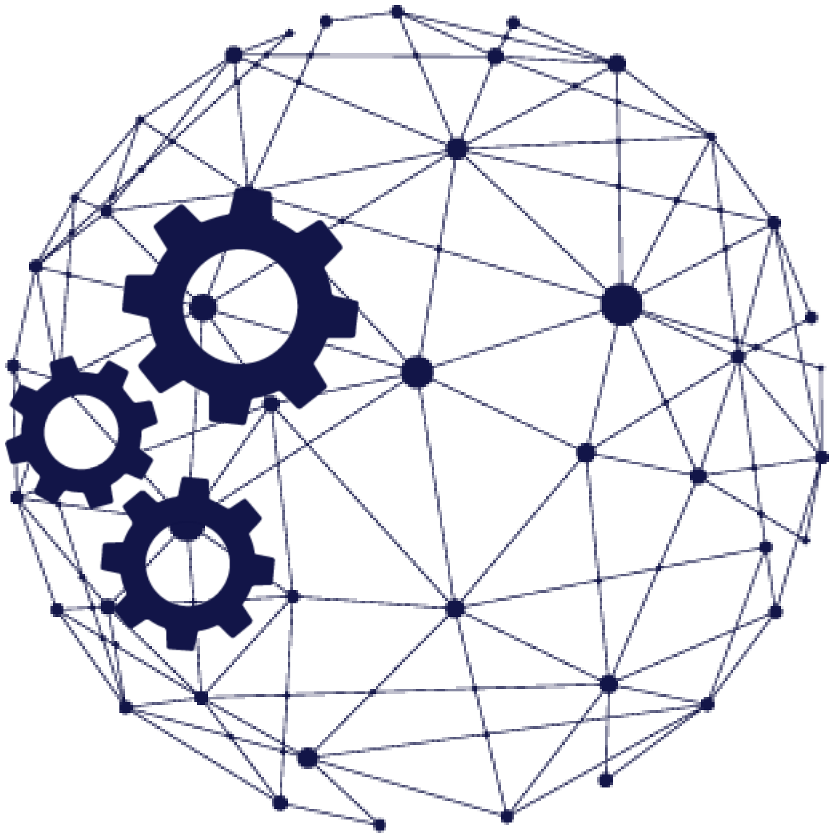
Some of the proceeds of crime are often laundered within the same territory, but cross-border transactions frequently occur, opening the door for illegal capital to flow between countries (LEVI, 2006). These creates the need for international cooperation to combat this phenomenon.

The strategies used for money laundering are constantly changing, such as shell companies, unofficial money transfer systems, money smuggling, use of electronic payment systems (DRAYTON, 2002; WODA, 2002).



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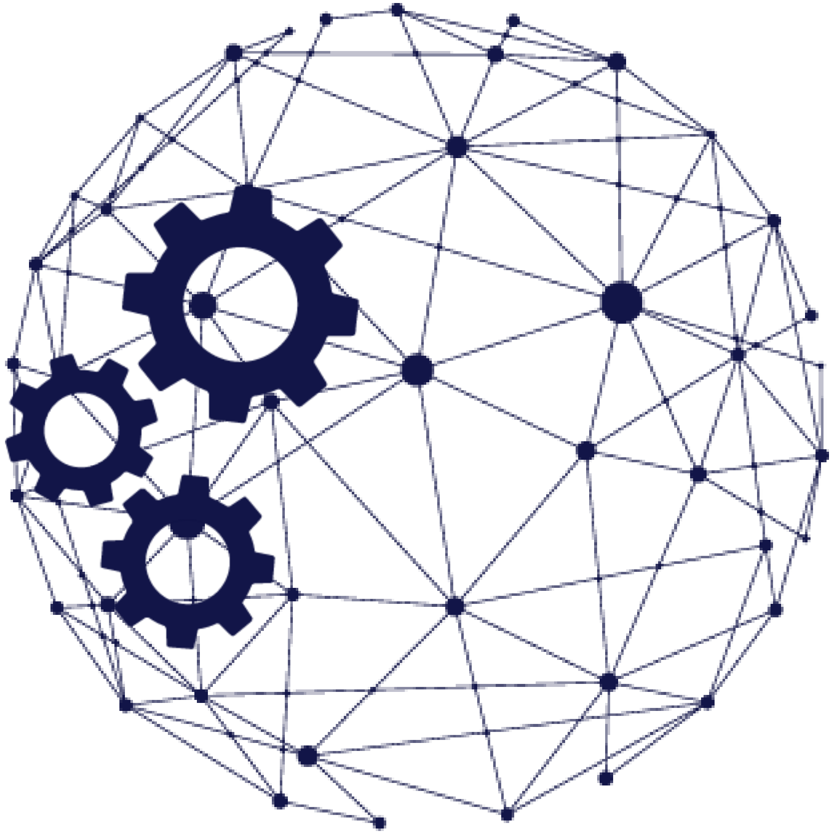
As for proposals for public policy actions to prevent and combat money laundering, it is important to fight the criminal structure, but not losing sight of the financial and assets part. While it is usually easiest to start with investigating a prior crime, such as fraud or drug trafficking, **the strategy could also start laterally, attacking localized illicit resources or tax discrepancies** that arise in identifying the failure to pay taxes.

It is also essential to **prioritize the crimes to be investigated** and where human and material effort will be concentrated. That is, defining the points to be pursued to generate alerts in their computer systems or in their processes for collecting, processing and analyzing information.



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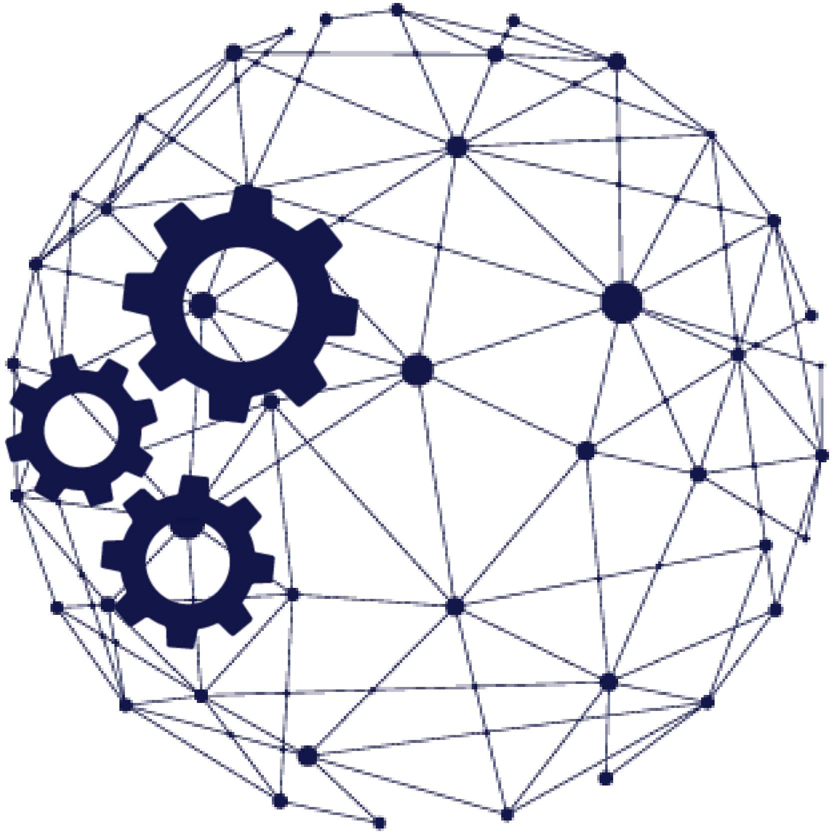
Another important evidence is the **creation of regional units** within the Attorney General's Offices or other competent bodies that could be established in the main cities, where they could provide services to the cases that reach the federal courts in a certain area.

In addition, **the investigation and proceedings before the judges must be able to follow two independent paths**: on the one hand, the antecedent crime, such as the tax offenses that generated the appeal, and on the other hand, operations that were carried out with money from an illicit act. In these cases, it is not necessary to have a conviction for the antecedent offense, but only a link to an offense that is the product of an ongoing criminal case, such as an indictment.



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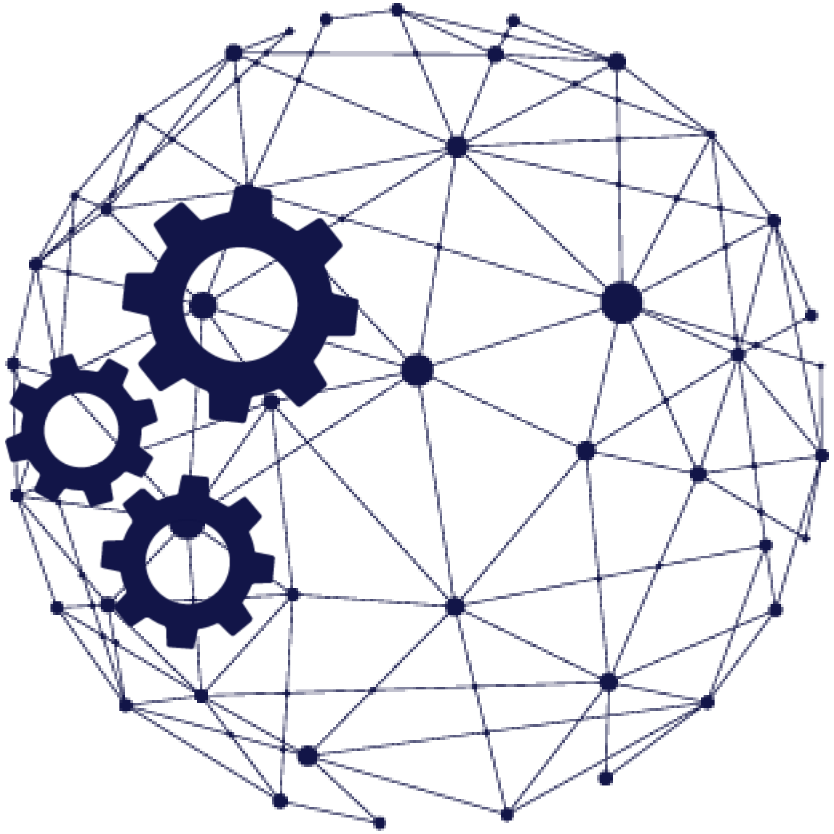
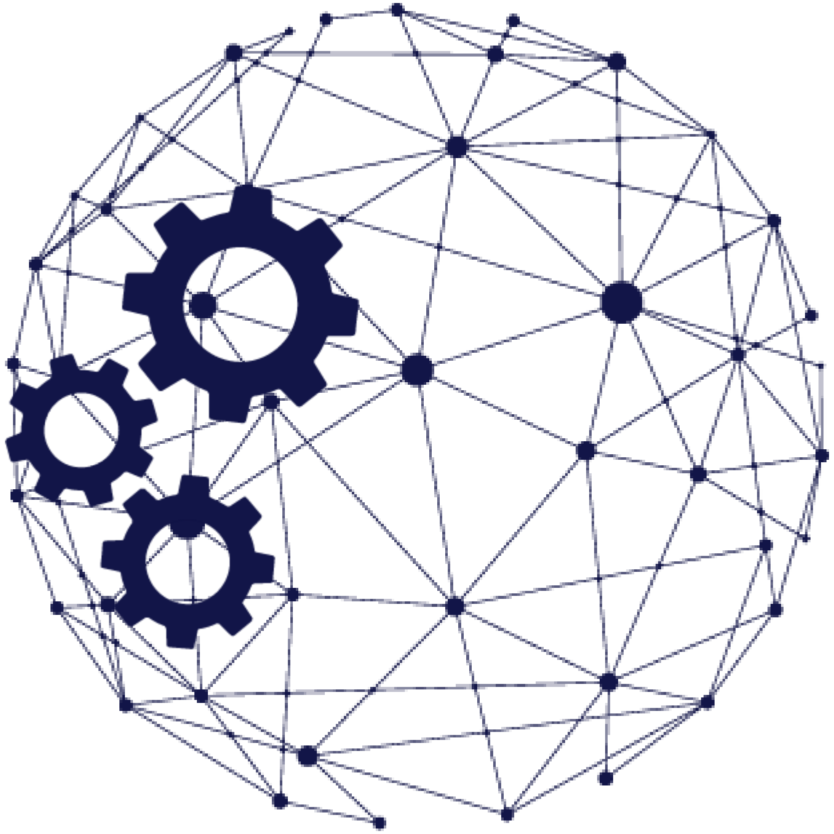
Finally, it is advisable **to focus on joint training of public prosecutors and other agents specialized** in preventing and combating money laundering. This is critical as prosecutors need to translate intelligence products into case theory that will be presented to judges.

It is also important **to define a policy of systematizing information** based on a policy of criminal prosecution of crimes that obviously generate resources and are defined as priorities by the Attorney General, which should also be a priority for the initiation of investigations of the money laundering crime.



Class Summary

- It presents aspects of the contemporary approach to fight laundering;
- Introduces the main international mechanisms and the understanding of the phenomenon of money laundering;
- It discusses the main strategies for combating money laundering at a regional level.



Reference

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