

Article

The Professional Conflict Pertaining to Confidentiality—The Obligation of Disclosure for Intermediaries of Financial Transactions

Mihaela Tofan ^{1,*}  and Alina-Adriana Arseni ²

¹ JM Centre of Excellence European Financial Resilience and Regulation, University Alexandru Ioan Cuza of Iasi, 700506 Iasi, Romania

² Dobrinescu Dobrev SCA, 040253 Bucuresti, Romania; adriana@dobrinescudobrev.ro

* Correspondence: mtofan@uaic.ro

Abstract: The present study aims at providing an overview of the international, European, and national legal frameworks relating to the obligation of intermediaries of financial transactions to report to tax authorities, and the professional secrecy which applies to their professions, as well as the conflict between the two. The authors address these topics from theoretical and jurisprudential perspectives, both at national and European levels, using doctrinaire, documentary, and comparative approaches. The analyses pointed out that the focus is placed on lawyer–intermediaries’ activities and liabilities when their activity is covered by confidentiality and legal privilege. Specific attention was revealed to be necessary when the conditions under which an exemption from the reporting obligation applies, and the particularities of the effects of the regulation in these scenarios. The topic of observing the legal framework and solving the possible conflicts generated by the divergent regulation of the law enforced has been the subject matter of recent European case laws that impact all the legal systems of the European Union’s member states, which has necessitated an examination of the hierarchy of law systems within the European Union member states and to emphasize the practical jurisprudential effects.

Keywords: professional secrecy; legal professional privilege; cross-border arrangement; reporting obligation; intermediaries



Citation: Tofan, Mihaela, and Alina-Adriana Arseni. 2024. The Professional Conflict Pertaining to Confidentiality—The Obligation of Disclosure for Intermediaries of Financial Transactions. *Laws* 13: 2. <https://doi.org/10.3390/laws13010002>

Academic Editor: Patricia Easteal

Received: 5 December 2023

Revised: 28 December 2023

Accepted: 29 December 2023

Published: 31 December 2023



Copyright: © 2023 by the authors. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

1. Introduction

Professional secrecy mainly covers issues relating to professional ethics, as they are encompassed in specific legal provisions. Legal ethics, therefore, has a vital role in lawyers’ professional obligations: legal duties to the law and justice (Allan 2009), fiduciary and confidentiality duties as well as discretionary rules (Laby 2004) such as integrity, practical wisdom, and judgement as well as professional codes of conduct (Mescher 2021).

The role of professional secrecy reflects the importance of privacy and discretion in social life (Bialkowska 2021). The discretion toward information received while performing professional activities is generally perceived as a moral value (Frankel 1989) and, up to a specific degree, it is considered an implicit value governing due diligence (Longobardo 2020). Regardless of the type of information disclosed (Mares 2018), the client must be certain that it will not be used against him or her in a court of law, by the authorities or any other party (Hart 1961; Negrut and Zorzoana 2023). Professional secrecy is generally considered to be a condition of the good functioning of the legal system; and thus, it is one of the features describing the functionality of the legal systems for the benefit of the public interest (Van Gerven 2013).

There are notable differences between regulation systems of countries on the topic of professional secrecy (OECD 2010), from the perspective of the various professionals’ legal conduct and from the point of view of general social habits or culture (Rhode 1985). At

the same time, different levels of discretion may be analyzed using historical angle, for the same social group and for any specific professional code of conduct (Evans and Harris 2004; Evans 2011).

The legal regime of professional secrecy includes various nuances used for different areas of activity (Luban 2007) and for different countries (DLA Piper 2021). For instance, lawyers practicing within the European Union are also bound by the obligation of professional secrecy as an indispensable trait of the national lawyers' profession regulation. In this respect, Article 2.3.1 of the Code of Conduct for European Lawyers provides, among others, that: *"The lawyer's obligation of confidentiality serves the interest of the administration of justice as well as the interest of the client. (...)"* (CCBE 2013).

The relevant literature states that secrecy/confidentiality that the lawyers owe and provide to their clients may be subject to a twofold analysis, namely both as a right and as an obligation to safeguard society's core values (Ward 2005). As such, the decision to withhold (or to disclose) confidential information might be the subject of a national or European specific provision, while generally, a lawyer must follow a client's instruction to withhold information (Wolski 2013). The information a client decides to be communicated to the lawyer is either perceived as the exclusive property of the client (McGroarty and McGroarty 2023), so it cannot be passed on to any other subject (Tofan 2023), or it can be considered important for other persons or for the general interest (Tofan 2022). In the *"cult of transparency"* (Bredin 2001; Bernstein 2014), professional secrecy is unjustly labeled as *"shady, dishonest or subversive"* (Haglund 2009; Torbert 2021). Other factors that intensify this view are the evolution of technology (Salmerón-Manzano 2021), which allows the permanent surveillance of one's conduct (Richards 2013; Kolliarakis 2017; Young 2018; Amo et al. 2021), as well as the fight against money laundering (Schott 2006; Benson 2018; Lannoo 2021; Yeh 2022a, 2022b).

In summary, the social scientific research presents evidence of the fact that lawyering involves choice and that those choices are made within a context that includes rules, professional expectations, and personal values (Lupo and Carnevali 2022). These decisions are regularly made in what may be described as zones of discretion, choice, and justification that are inevitable features of the lawyer's role (Robertson and Tranter 2006).

The article includes a brief description of the professional secrecy concept and of the controversial situation that may occur in practice (introduction), the methods used for this study (Section 2), the main findings the author has revealed in their research (Section 3), the discussion on the partial results and the limits of their analyses (Section 4), and the conclusions and the future direction to perform in-depth investigations of the proposed topic (Section 5).

2. Methods

The research carried out for this study is primarily analytic, argumentative, and conceptual. The research is focused on doctrine and regulation, and it used argumentative and analytical approaches. The authors have used both a theoretical analysis of the legal doctrine and an assessment of the effect generated by the regulation in force, including various level of action (national, European and international level).

The controversial issues regarding the regulation to support professional secrecy are emerging not only for the various patterns of regulatory frameworks and differences in the feature of the concept for various professionals, but also from the recent developments of the legal framework to fight financial fraud (Singh 2021). In this context, the European Union legislator has adopted a wide and constantly growing system of rules to limit if not eliminate the financial fraudulent operation, e.g., Directives on Administrative Cooperation (DACs). Some of these actions aim at involving the private entities together with the public actors in this important battle to secure a safe and productive financial market. It is the case when the private entity encounters information that might suggest or describe a potential fraudulent context, of which the public actors might have information only later, if ever. The general obligation to contribute to the respect of the rule of law in general demands

some sort of action from the private entity, even when this entity is, under the general liability of the professional conduct, limited to specific action. It is the case of the financial obligation to disclose the terms of a potential fraudulent action which a private consultant has encountered while performing her/his professional specific action. This obligation collides with the professional secrecy requirements, generating controversial effects and divergent possible means to act. This paper studies this context and highlights the present regulatory gaps, proposing *de lege ferenda* solutions.

The authors herein used contemporary methodological perspectives in the context of legal science, combined with an analysis of concepts, studying present and potential case law scenarios, synthesizing opposite opinions, developing large- to narrow-impact arguments, explaining divergent views, and building premises relevant to the legal framework and ethical constraints for various professions. This paper includes an analysis of jurisprudential solutions produced by international relevant courts of law and the effects to be followed and applied in legal practice. We present some research results based on the comparative method, which provide an in-depth understanding of the ethical and legal dilemmas encountered by financial consultants regarding their secrecy obligation and the respect of the rule of law.

In addition, the authors focused on the limits of their research and identified possible paths to develop the line of analysis in future research.

3. Findings

Professional secrecy consequently protects both the information held by the lawyer and the correspondence and the advice of the lawyer addressed to the client (Van Gerven 2013). The following activities are subject to the lawyer–client privilege: legal advice and legal defense provided by the lawyer, covering all stages, including the pre-contractual phase, negotiations, and mediation activities; correspondence with the client and other fellow lawyers as well as the lawyer’s notes; the tangible medium of the evidence made available to the lawyer; the testimonies received by the lawyer during the exercise of his/her profession; the lawyer’s professional agenda; the financial documents and banking operations showing the professional services; and the information acquired in relation to the client.

3.1. Highlights of the Present Regulation Regarding Obligation to Notify/Inform

3.1.1. The Current International and European Legal Framework regulating the Obligation to Disclose Tax-Related Information

As pointed out in the doctrine, the first code of ethics for legal professions was adopted in 1908 in the US, namely the Canon of Ethics for lawyers (Ariens 2008), which stated that cases involving a client’s reputation should not be settled, and that the public authorities’ representatives should not use their status to force the attorney to compromise the client’s case. Since then, a complex regulatory framework has been developed throughout the United States to support the respect of professional secrecy from a legal point of view (Blank and Glogover 2019). The conflict between professional privilege and liability to notify is, today, subject to precise regulation. There are at least two decades of US expertise in applying mandatory disclosure rules applying to reportable transactions, whereby taxpayers and their advisors are required to “disclose to the IRS instances in which they participate in transactions that bear tax shelter traits” (Beale 2006).

On the contrary, and somehow unexpectedly, the topic was regulated very recently in Canada, where a set of new mandatory disclosure rules has recently been adopted and included in the Income Tax Act (Ernest and Young 2023). Such rules apply to transactions occurring after 21 June 2023, for reportable and notifiable transactions, and to tax years beginning after 2022 for reportable uncertain tax treatments.

In terms of the European policy to harmonize the member states’ regulatory framework, yet while leaving the members to decide the appropriate method to achieve a certain goal (a renowned mechanism known as subsidiarity) (Craig and De Burca 2020; Tofan

and Verga 2023), the European Commission took the necessary actions to follow the path initiated by the Organization for Economic Cooperation and Development (OECD). The Base Erosion and Profit Shifting (BEPS) framework, developed by the OECD, dedicates its Action 12 to Mandatory Disclosure Rules (OECD 2015) by providing recommendations for rules aimed at disclosing abusive/aggressive tax planning arrangements, including with respect to advisors. In this context, within the European Union (EU), the Council Directive (EU) 2018/822, amending Directive 2011/16/EU with regard to the mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (DAC6), is a significant piece of legislation which builds upon the previous anti-money laundering and anti-tax avoidance directives and enhances transparency against cross-border tax schemes that may be deemed abusive or aggressive. As stated in the preamble of the DAC6 document, in line with BEPS Action 12, “(…) the European Parliament has called for tougher measures against intermediaries who assist in arrangements that may lead to tax avoidance and evasion. (...)” (para. 4).

Among other provisions, DAC6 amends Directive 2011/16/EU on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (Directive 2011/16/EU) so as to define a “reportable cross-border arrangement” as any cross-border arrangement that contains so-called “hallmarks” or indicators that fall into one of the following categories: generic and specific hallmarks linked to the main benefit test, specific hallmarks related to cross-border transactions, specific hallmarks concerning an automatic exchange of information and beneficial ownership, as well as specific hallmarks concerning transfer pricing.

The scope of the obligation to disclose information pursuant to DAC6 covers all categories of intermediaries, such as lawyers, notaries, advisors, tax consultants or accountants. The conditions that determine the mandatory automatic exchange of information on reportable cross-border arrangements are as follows:

- (i) The existence of an arrangement in the taxation field.
- (ii) An activity having cross-border effects within the EU.
- (iii) A performance of the “main benefit test”. This test is considered to be “(…) satisfied if it can be established that the main benefit or one of the main benefits which, having regard to all relevant facts and circumstances, a person may reasonably expect to derive from an arrangement is the obtaining of a tax advantage” (Annex IV—Part I), e.g., related to tax exemptions, tax reimbursements, maximizing tax deductions, tax losses, as well as diminished income or gain.

The time limit to inform the competent authorities is 30 days, which may start to run from different moments—whichever occurs first. However, there is a possible exception to the obligation incumbent on intermediaries concerning such exchange of information, granting a waiver on grounds of breaching the legal professional privilege under the national law; in this hypothesis, the obligation to disclose is transferred to other intermediaries or, in the absence thereof, to the relevant taxpayer.

3.1.2. The Transposition of DAC6—The Romanian Case

The transposition is the procedure that imposes the member states of the EU to undertake the most suitable actions to achieve the goal established by EU directives, within a precise term (Craig and De Burca 2020; Tofan and Verga 2023). The deadline for the transposition of DAC6 was 1 July 2020. The transposition is a liability for all member states of the EU. Therefore, in the UK, following Brexit (Pillay 2021), DAC6 was replaced with the Mandatory Disclosure Rules (MDRs) developed by the OECD, enforced as of 28 March 2023.

The process of transposing DAC6 in Romania focuses on the following two interventions:

- On 28 January 2020, the Government Ordinance no. 5/2020 for amending and supplementing Law no. 207/2015 on the Tax Procedure Code (GO no. 5/2020) was adopted, which aims at transposing DAC6.

- Soon thereafter, on 13 January 2021, a guide on the interpretation of DAC6 was published on the website of the National Agency for Tax Administration (ANAF).

This Guide (the DAC 6 Guide) further clarifies the provisions under the GO no. 5/2020, namely:

- (i) The notion of earnings (EBIT) as per DAC6 is used instead of income, as the GO no. 5/2020 provided.
- (ii) Further clarification is brought about with respect to “circular transactions (...) involving interposed entities without other primary commercial function or transactions that offset or cancel each other (...)”.
- (iii) The EU/OECD list of non-cooperating jurisdictions is considered automatically reportable. It is questionable to what extent the guide may be invoked by national authorities, as it is not a binding piece of legislation, but it is useful at least as a guidance tool when construing the provisions set out under the GO no. 5/2020 in relation to DAC6.

3.2. *The Configuration of Lawyers’ Legal Obligation of Professional Secrecy in National System of Law—A Romanian Case*

In Romanian Law, the obligation to inform/notify the transaction of potentially fraudulent activities is incumbent to all categories of consultants and intermediaries. For instance, notaries are bound to comply with the obligation of professional secrecy with respect to the deeds and acts of which knowledge was acquired in the exercise of their activity, unless the parties or the law remove such obligation; this is mandatory although the notarial proceedings carried out at the notary’s office are not public, being reserved for the parties and the persons appointed as their proxies or attorneys ([Bucharest Chamber of Notaries Public 2023](#)).

Nevertheless, the law treats the obligation incumbent on lawyers to keep the secrecy of all information received while performing professional activity as a duty of paramount importance, which must be observed in all circumstances during the exercise of lawyers’ every activity and beyond, throughout the lawyers’ lives ([Stupariu and Girigan 2018](#)). The Law regulating the lawyers’ profession explicitly stipulates that lawyers are bound to observe professional secrecy regarding any aspect of the case handled thereby, except for the instances also provided by law. The Statute regulating the lawyer’s profession further details this obligation by stipulating that the professional secrecy is a matter of public order. A lawyer is bound to observe professional secrecy with respect to any aspect of the case attributed thereto. Furthermore, as a rule, lawyers may not be compelled under any circumstances and by anyone, including by the client or by any authority, to disclose professional secrecy; as an exception, disclosure is allowed strictly for defense purposes when the lawyer is prosecuted, under disciplinary charges or when there is a challenge made with respect to the agreed fees. Should the information regarding a former client become public, the lawyer is, nevertheless, allowed to use such information.

With respect to the extent of lawyers’ obligation to observe professional secrecy, the following legal coordinates apply: from a temporal standpoint, the professional privilege of secrecy is absolute and unlimited in time; from a personal perspective, it extends to all the lawyers’ activities as well as those of his/her partners, associates or employed lawyers, including relations with other lawyers, as well as the individuals with whom the lawyer collaborates in the exercise of the legal profession or his/her employees; the lawyer is required to bring this obligation to the attention of all such individuals. The same obligation must be observed by the bodies of the legal profession with respect to the information acquired in the exercise of their duties.

One of the core rules governing the lawyer–client relations is that the lawyer is the client’s confidant with respect to the case attributed to the former. Confidentiality and professional secrecy ensure trust in the lawyer and are among the lawyer’s fundamental obligations.

3.2.1. Procedural Guarantees Ensuring Lawyers' Professional Secrecy in National Legal Systems

The EU regulation does not provide specific procedural rules for the action of the lawyer or any other type of practitioner acting as intermediary in the European unique market. It is the role and the mission of the national legal system to establish the specific pattern/format for the exercise of the lawyer's professional secrecy, adapted to the defense mechanism enforced. There are essential procedural guarantees to ensure the wholeness of the professional secrecy of lawyers, especially within the Romanian criminal procedure. A striking example relates to witness statements. The law lays down several rules with respect to the ability of a lawyer to provide a witness statement in any type of proceeding. Thus, lawyers may not be heard as witnesses, nor may they provide information regarding the case attributed thereto to any authority or person unless such a lawyer obtains the prior written and explicit consent of all clients concerned in that case.

The obligation to take the stand as a witness prevails over the position and mission of the lawyer, only with regard to the facts and circumstances known before becoming the lawyer or the representative of a certain party involved in that specific case. Finally, if the lawyer is heard as a witness, he/she is not allowed to perform any other professional activity in such a case. Specifically, in criminal proceedings, as per the Romanian Criminal Procedure Code, any acts or circumstances whose secrecy or confidentiality may be enforced by virtue of law against the judicial bodies are commonly excluded from being the subject matter of witness statements. As an exception, such acts or circumstances may be included in witness statements when the competent authority or the person entitled consent to disclosure or there is a legal cause removing the obligation to observe secrecy/confidentiality.

Also, a witness subpoenaed within criminal proceedings may not perform services as a lawyer of one of the parties/main procedural subjects in the same case, unless such a witness invoked the right to silence in certain hypotheses specified by the law. Other areas where special procedural guarantees have been instituted to ensure the effectiveness of lawyers' professional secrecy are searches and wiretaps.

For the prevention of any abusive conduct from third parties, the professional work of lawyers being in the possession of lawyers or at their professional office are deemed "inviolable" by law. Furthermore, searching lawyers' properties, their domicile or their professional office, as well as seizing any documents or assets therefrom—except for documents comprising lawyer–client communication or lawyer's notes for the purposes of defending the client, which are exempt from being seized or confiscated—may only be carried out by the prosecutor based on a warrant issued pursuant to the law.

For the same anti-abuse protection scope, wiretaps concerning the lawyer–client relation are solely permitted under strict legal conditions, namely when there are data indicating that the lawyer is perpetrating or preparing to perpetrate one of the offenses enumerated under Article 139 para. (2) of the Criminal Procedure Code; e.g., offenses against national security, cybercrime, tax evasion, offenses against the financial interests of the EU or other offenses punishable by imprisonment of 5 or more years. Any other surveillance activities concerning the lawyer and the suspect or defendant defended thereby may not be used as evidence within any criminal proceedings and must be immediately destroyed by the prosecutor; in such an event, the prosecutor informs the judge who ordered such surveillance measures, who, in turn, may inform the lawyer concerned.

Any evidence adduced in breach of the procedural provisions rendered above, including any evidence deriving thereof (as per the fruit of the poisonous tree doctrine), are subject to exclusion, both legally ordered and physically removed from the case file.

3.2.2. Sanctions for Unlawful Breaches of the Obligation to Observe Professional Secrecy

Lawyers' failure to comply with the previously referenced provisions pursuant to Article 8 of the Lawyers' Statute constitutes a serious misconduct entailing disciplinary action. Moreover, a breach of professional secrecy by professionals in general may also constitute a

criminal offence. As such, the following act is incriminated under Article 227 para. (1) of the Romanian Criminal Code: the unlawful disclosure of data or information regarding the private life of a person, if this is liable to cause damage to a person, perpetrated by the one that acquired knowledge thereof by virtue of his/her profession or position, and that is required to observe confidentiality with respect to such data and information, constituting a criminal offence punishable by imprisonment of between 3 months and 3 years or by a criminal fine. The criminal action with respect to this offence must be set into motion ex officio, but only if the injured person submits a prior complaint, as per the second paragraph of Article 227 of the Criminal Code.

Particularly for lawyers, an aggravated version of the offense provided under Article 227 of the Criminal Code is to be found under Article 45 para. (6) of Law no. 51/1995, consisting of the lawyer's unlawful disclosure of confidential information pertaining to his/her client's private realm or to an operational or trade secret that was entrusted thereto by virtue of the same capacity or of which the lawyer may have become aware during his/her legal practice. This offence is punishable by imprisonment of between 1 and 5 years and the criminal action is initiated ex officio. Conversely, for obvious reasons, lawyers cannot be required to denounce their own clients. As such, the lawyers' failure to denounce criminal offenses of which they gain knowledge during their legal practice is not incriminated, except for several serious offenses strictly provided under Article 45 para. (8) of Law no. 51/1995, such as homicide, manslaughter, genocide or acts of terrorism. In all such instances, lawyers are exonerated from criminal liability should they prevent the perpetrating of the offense or the consequences thereof by any other means apart from denouncing it.

3.3. Case Law Clarifying the Concepts of Professional Secrecy and the Duty to Inform, Resolving the Underlying Conflict between the Two

3.3.1. The European Court of Human Rights (ECHR) Approach

The ECHR has developed a consistent case law with respect to safeguarding fundamental rights when dealing with professional secrecy. Among such cases, the following are noteworthy:

- Pursuant to the judgment rendered in the [Case Pruteanu v. Romania \(n.d.\)](#) (ECLI:CE:ECHR:2015:0203JUD003018105), the wiretapping of lawyer–client telephone correspondence was considered to have caused a violation of Article 8 of the European Convention on Human Rights (the Convention) regarding the respect to private life and the freedom of correspondence.
- In the [Case of Iordachi and Others v. Moldova \(n.d.\)](#) (ECLI:CE:ECHR:2009:0210JUD002519802), the ECHR held that the mere possibility for lawyer–client telephone discussions to be wiretapped amounted to a violation of the right to a private life.
- In an older case, namely the [Case of Kopp v. Switzerland \(n.d.\)](#) (Application no. 23224/94 Judgment 25.3.1998), the ECHR had already established that telephone calls made from or to business premises, such as those of a law firm, may be covered by the notions of private life and correspondence within the meaning of Article 8 para. 1 of the Convention ([Stefanelli 2011](#)).
- Relating to searches, in the [Case Mancevschi v. Moldova \(n.d.\)](#) (ECLI:CE:ECHR:2008:1007JUD003306604), the ECHR ruled that searching the law office of a lawyer has an impact on the lawyer–client privilege and, consequently, the investigating judge should have given “compelling and detailed reasons” for authorizing such search warrants and enforce particular measures to safeguard the privileged materials protected by professional secrecy.
- Lastly, the ECHR has emphasized that Article 8 of the Convention confers “strengthened protection to exchanges between lawyers and their clients” on account that “(…) lawyers are assigned a fundamental role in a democratic society, that of defending litigants. Yet, lawyers cannot carry out this essential task if they are unable to guarantee to those they are defending that their exchanges will remain confidential. It is the

relationship of trust between them, essential to the accomplishment of that mission, that is at stake (. . .)”. The ECHR expressed this opinion in [Case Michaud v. France \(n.d.\)](#) (ECLI:CE:ECHR:2012:1206JUD001232311).

3.3.2. The Court of Justice of the European Union (CJEU) Approach

When the EU regulation is interpreted in different ways so that this interpretation affects the coherence of the EU legal system, there is the mandatory and unique role of CJEU to give the proper and official interpretation for the respective rule of law, with financial issues included ([Herzog 2021](#)). The recent case law of the [CJEU \(2022\)](#) includes the judgment rendered on 8 December 2022, in Case C-694/20.

The ruling was based on a request for a preliminary ruling made by the Flemish Bar Association, the Belgian Association of Tax Lawyers, and three lawyers. These applicants had made a formal request before the Constitutional Court in Belgium to refer the following matters with the CJEU to rule on the validity of several provisions set out under Directive 2011/16/EU, as amended by DAC6, in light of the right to respect private life and the right to a fair trial, set out under Articles 7 and 47 of the Charter of Fundamental Rights of the European Union (the Charter), concerning the intermediaries’ obligation to disclose tax operations carried out by taxpayers that aggressively erode the tax base (tax evasion, tax fraud, aggressive tax planning) and implicitly affect the internal market.

The Court’s extensive reasoning analyzes the principle of legality, the principle of proportionality in relation to the non-absolute nature of the protection of private life and of the right to freely choose one’s profession. The legal provisions that were challenged in this case are the following.

Article 8ab of amended Directive 2011/16, entitled “Scope and conditions of mandatory automatic exchange of information on reportable cross-border arrangements” lists the following:

1. “Each Member State shall take the necessary measures to require intermediaries to file information that is within their knowledge, possession or control on reportable cross-border arrangements with the competent authorities within 30 days (. . .).

5. Each Member State may take the necessary measures to give intermediaries the right to a waiver from filing information on a reportable cross-border arrangement where the reporting obligation would breach the legal professional privilege under the national law of that Member State. In such circumstances, each Member State shall take the necessary measures to require intermediaries to notify, without delay, any other intermediary or, if there is no such intermediary, the relevant taxpayer of their reporting obligations under paragraph 6. Intermediaries may only be entitled to a waiver under the first subparagraph to the extent that they operate within the limits of the relevant national laws that define their professions”.

The first paragraph of Article 8ab provides for a direct disclosure, whereas the fifth paragraph thereof refers to an indirect disclosure. Essentially, the lack of conformity of the lawyer’s obligation to disclose with the lawyer’s legal professional privilege was the subject matter of the referral.

With respect to the legal professional privilege, Article 7 of the Charter, Article 8 of the Convention, and the related ECHR case law were addressed by the CJEU in this case, whereby the following aspects were emphasized:

- (i) The confidentiality of all correspondence between lawyers and their clients guarantees the activity of defense and the secrecy of the legal consultation;
- (ii) The persons consulting a lawyer should legitimately expect that the lawyer will not disclose to anyone that they are consulting him/her;
- (iii) The lawyers’ fundamental role in a democratic society comprises the requirement that any person should be able to freely consult a lawyer, while relying on his/her good faith.

At the same time, the indirect disclosure obligation under DAC6 implies that the lawyer–intermediary who benefits from a waiver from the obligation to disclose must

inform the third-party intermediaries of such obligation. Consequently, the third-party intermediaries will gain knowledge of the following information: the identity of the lawyer informing them; the lawyer's opinion that the arrangement concerned is reportable; and the fact that the lawyer has been consulted in relation to the arrangement concerned.

After presenting these legal guidelines, the CJEU renders its reasoning, firstly noting that the right to respect for communications between lawyers and their clients may only be restricted if:

- (i) The restrictions are provided by law;
- (ii) They comply with the essence of the right in question;
- (iii) They are appropriate and necessary and meet an objective of general interest recognized by the EU.

Consequently, the CJUE held that the principle of legality is fulfilled, the restrictions do not undermine the essence of the right, and, relating to the proportionality principle, the challenged amendment falls within the scope of international tax cooperation to combat aggressive tax planning and prevent the risk of tax avoidance and evasion. Nevertheless, the reporting obligation falling on the lawyer-intermediary subject to the legal professional privilege is not considered necessary by the CJEU to fulfill these objectives as all intermediaries are, in principle, bound by the obligation to disclose such relevant information to the authorities (direct disclosure).

Considering that each intermediary is not exempt from the reporting obligation unless they can prove that it has already been carried out by another intermediary, there are no concerns that the intermediaries will rely, without verifying, on the fact that the lawyer-intermediary will make the required report. The disclosure to the tax authorities of the identity and consultation of the notifying lawyer-intermediary is also not strictly necessary.

Finally, the CJEU held in its judgment rendered on 8 December 2022, in Case C-694/20 "(...) that Article 8ab(5) of amended Directive 2011/16 infringes the right to respect for communications between a lawyer and his or her client, guaranteed in Article 7 of the Charter, in so far as it provides, in essence, that a lawyer-intermediary, who is subject to legal professional privilege, is required to notify any other intermediary who is not his or her client of that other intermediary's reporting obligations".

The priority of the privilege of the lawyer over the norm regulating the obligation to notify validates the value of natural law of the right to the most efficient defense possible, and it is not contradictory to the validity of the same provisions in light of the right to a fair trial, although the CJEU did not find any interference of the reporting obligation with the rights of the defense, considering that this obligation occurs at a pre-dispute stage.

4. Discussions

4.1. Comparative View of DAC6 National Transposition in Other Member States

The comparative perspective emphasizes the difference in cultural and law expertise (Campbell 2020) for the EU member states. With respect to the waiver as per DAC6, professional secrecy according to the national law of each member state may include various categories of professionals that benefit from this protection, such as lawyers, tax advisers, accountants, auditors, and other service providers (this applies in Luxembourg, Croatia, the Slovak Republic, for instance, but also in Romania); when referring to legal professionals, some legislations also include trainees, paralegals or in-house lawyers within the scope of legal professional privilege, while others solely protect independent lawyers.

Some member states apply the exemption only to lawyers (e.g., the Netherlands, Sweden, Greece, Denmark, Cyprus), while others apply it selectively depending on the nature of the information (e.g., non-client-specific information is anonymously reported in Germany; Finland exempts only information covered by the privilege; Austria, Poland, and Czechia exclude marketable arrangements from the exemption).

There may also be variations concerning the scope of the legal professional privilege. For instance, the Spanish Law no. 10/2020 exclusively covers "the so-called 'neutral advice' (i.e., that rendered for the mere purposes of evaluating the adequacy of an arrangement to

the rules in force and the legal implications deriving from it)", which is different from the so-called "participative advice".

When the intermediaries are exempt, they generally must notify the taxpayer and other intermediaries of the exemption. There are different time limits provided for this type of notification, such as 14 days in Bulgaria, 3 days in Croatia, 10 days in Luxembourg or Cyprus, and 5 days in Portugal. In Romania, the notification is to be made "without delay" (see Section 4.2 below) and, similarly, in Austria or Hungary, the term "immediately" is used.

There are additional conditions provided under certain legislations. As such, the Czech law provides that the intermediary who claims legal professional privilege should retain the information notified to other intermediaries or relevant taxpayers for a period of 10 years; according to the Danish legislation, the exempt intermediary must provide a copy of the reportable information in writing to the relevant taxpayer.

Another relevant issue is the distinction between tax and criminal liability and the consequences thereof on the reporting obligation (Demin 2020). As such, the information exchanged between member states pursuant to DAC6 may solely refer to judicial and administrative proceedings involving potential tax infringements.

If such information reveals a potential criminal offence, then the privilege against self-incrimination is activated, in favor of both the lawyer and the taxpayer. This usually results from the criminal procedure provisions of each member state and directly from the relevant European legal instruments (Tzemos and Margaritis 2021), such as the Convention and the Charter (Avtonomov 2021). There are legislations, such as the Italian one, which explicitly provide an exemption from the reporting obligation as the report would trigger the intermediary's own criminal liability.

4.2. The Romanian and Belgian Transposition Laws

The judgement of the CJEU in this case is important not only for the respective parties, but for all the possible situations when the transposition of DAC6 directive was accomplished in such a manner so the above observed judgment may be referred to as official interpretation. It is a further direction of investigation to assess all the member states' legal systems to validate the precise transposition legal framework, as for the moment, the case study is limited to the Romanian context.

In Romania, pursuant to the amendment brought about by GO no. 5/2020 to the Tax Procedure Code, an intermediary is defined under Article 286 item v of the Tax Procedure Code as "any person that designs, markets, organizes or makes available for implementation or manages the implementation of a reportable cross-border arrangement", which corresponds to the definition set out in DAC6.

Relating to the Romanian transposition law, the DAC6 Guide refers to the meaning of an intermediary as it is set out under Article 286 item v of the Tax Procedure Code, which includes any individual, legal person, professional association or any other entity, members of professional tax or accounting associations, lawyers, accountants, financial service providers or other categories of advisors. Membership in professional groups is not a prerequisite to become an intermediary, but rather a direct involvement in planning a cross-border arrangement.

The DAC6 Guide further explains that, depending on the circumstances, the obligation to disclose may fall on an individual or a legal person, depending on whether the individual provided the services related to the cross-border arrangement under his/her own name or as a representative/employee of the legal person; in this latter instance, the legal person is the intermediary. The same guide referenced above distinguishes (under Section 4.1.1) between two categories of intermediaries, namely:

- (i) Persons that design, market, organize or make available for implementation or manages the implementation of a reportable cross-border arrangement, therein named "promoters".

- (ii) Persons that know or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organizing, making available for implementation or managing the implementation of a reportable cross-border arrangement, therein named “service providers”. This classification closely follows the definition pursuant to DAC6.

Direct disclosure for lawyer–intermediaries and other professionals is regulated by Article 291⁴ para. (7) of the Tax Procedure Code, which stipulates that: “For intermediaries who, as per the law, are subject to professional secrecy, they disclose reportable cross-border arrangements only with the written consent of the relevant taxpayer”. Conversely, indirect disclosure is provided under Article 291 ind. 4 para. (8) of the Tax Procedure Code, which provides that, in the absence of such written agreement, the intermediary shall notify, without delay, in writing, either any other intermediary or, if there is no other intermediary, the relevant taxpayer, with respect to the reporting obligation.

However, both hypotheses indicated above do not have any effect for lawyer–intermediaries because of the primacy of EU law and the mandatory nature of the CJEU case law (C-694/20). The primacy of EU law is enshrined at the constitutional level, under Article 148 para. (2) of the Romanian Constitution, which provides that the EU treaties as well as other mandatory EU pieces of legislation take precedence over the contrary provisions set out under domestic legislation, in full compliance with the Act of Accession.

The Belgian legislation in this matter is similar to the Romanian one, in terms of the persons primarily obliged to report, the existence of legal professional privilege as well as the breaching of such privilege by reporting.

As it was presented by the referring court pursuant to the judgment rendered in Case C-694/20, in Belgium, a decree dated 26 June 2020 transposed DAC6 by requiring a lawyer–intermediary, where he/she is bound by legal professional privilege, to inform the other intermediaries concerned in writing, stating reasons about the impossibility to fulfil his/her reporting obligation. Under Belgian law, it is possible for the taxpayer to release the intermediary from the legal professional privilege.

The referring court has further added that the legal professional privilege covers information which lawyers must file with the competent authority if such information relates to legal representation and legal advice. It observed that the mere recourse to a lawyer is covered by legal professional privilege and that the same applies, *a fortiori*, to the identity of a lawyer’s client.

5. Conclusions

The research presented in this paper led to some conclusions, *de lege ferenda* proposals to amend or redesign the relevant legislation, and some directions to overcome the limits of the research.

The current domestic legislation requires that the tax authorities be informed of cross-border transactions that are legal, but potentially aggressive taxwise. Such notice is automatically communicated to all tax authorities in the EU.

However, with respect to lawyer–intermediaries, the validity of such European provisions has been put into question because of its conflict with the legal professional privilege. The conflicts need to be addressed from theoretical and practitioner perspectives. The jurisprudential approach is illustrative only when merging the vision expressed by the ECHR with the arguments used by the CJEU. Recently (December 2022), the CJEU rendered a revolutionary and widespread effective judgment, observing the possibility of interference between the national transposition mechanism of DAC6 provisions and fundamental rights. The opinion of the EU court leaves no doubt that when the national regulation for making effective the obligation to notify the public authorities about a possibly fraudulent transaction collides with the legal instruments, guaranteeing the right for private life, then the latter shall take precedence, as already mentioned above.

Thus, the relatively recent judgment concerning the transposition of DAC6 into the Belgian legislation gives way to a more in-depth analysis of the transposition legislation in each member state. Also, the concepts of professional secrecy and legal professional privilege and the extent thereof should be interpreted by closely analyzing each national legislation, as they may vary in this respect.

Finally, with respect to the distinction between tax and criminal liability and the consequences thereof on the reporting obligation, a possible lack of clarity with respect to the exact moment when a criminal charge may occur should also be addressed.

Author Contributions: Conceptualization, M.T. and A.-A.A.; methodology, M.T.; validation, M.T. and A.-A.A.; investigation, A.-A.A.; resources, M.T.; writing—original draft preparation, A.-A.A.; writing—review and editing, M.T.; visualization, M.T.; supervision, M.T.; project administration, M.T.; funding acquisition, M.T. All authors have read and agreed to the published version of the manuscript.

Funding: The authors acknowledge financial support from the European Commission-Erasmus Plus Program, Project ERASMUS-JMO-2022-HEI-TCH-RSCH EUFIRE-RE-101085352, Jean Monnet Center of Excellence European Financial Resilience and Regulation EUFIRE-RE.

Institutional Review Board Statement: Not applicable.

Informed Consent Statement: Not applicable.

Data Availability Statement: No new data were created or analyzed in this study. Data sharing is not applicable to this article.

Conflicts of Interest: The authors declare no conflict of interest. The funders had no role in the design of the study; in the collection, analyses, or interpretation of data; in the writing of the manuscript; or in the decision to publish the results.

References

- Allan, Trevor Robert Seaward. 2009. Law, Justice and Integrity: The Paradox of Wicked Laws. *Oxford Journal of Legal Studies* 29: 705–28. Available online: <http://www.jstor.org/stable/27750071> (accessed on 20 November 2023).
- Amo, Daniel, Paul Prinsloo, Marc Alier, David Fonseca, Ricardo Torres Kompen, Xavier Canaleta, and Javier Herrero-Martín. 2021. Local Technology to Enhance Data Privacy and Security in Educational Technology. *International Journal of Interactive Multimedia and Artificial Intelligence* 7: 262–73. [CrossRef]
- Ariens, Michael. 2008. American Legal Ethics in an Age of Anxiety. *St. Mary's Law Journal* 40. Available online: <https://commons.stmarytx.edu/thestmaryslawjournal/vol40/iss2/1> (accessed on 29 December 2023).
- Avtonomov, Alexei. 2021. Activities of the European Ombudsman under the Charter of Fundamental Rights: Promoting Good Administration through Human Rights Compliance. *Laws* 10: 51. [CrossRef]
- Beale, Linda M. 2006. Tax Advice before the Return: The Case for Raising Standards and Denying Evidentiary Privileges. *Wayne Tax Review* 25: 583–670. Available online: <https://digitalcommons.wayne.edu/lawfrp/309> (accessed on 10 November 2023).
- Benson, Katie. 2018. Money Laundering, Anti-Money Laundering and the Legal Profession. In *The Palgrave Handbook of Criminal and Terrorism Financing Law*. Edited by Colin King, Clive Walker and Jimmy Gurule. Berlin: Springer, pp. 109–33. [CrossRef]
- Bernstein, Ethan. 2014. The transparency trap. *Harvard Business Review* 92: 58–66. [PubMed]
- Bialkowska, Paula Maria. 2021. Legal and Ethical Grounds of Professional Secrecy of a Lawyer in selected European Union countries and in the United States of America. *Review of European and Comparative Law* XLV: 77–103. [CrossRef]
- Blank, Joshua D., and Ari Glogover. 2019. Progressive Tax Procedure. FALL 2019 WP NEW YORK UNIVERSITY SCHOOL OF LAW. Available online: https://www.law.nyu.edu/sites/default/files/Progressive%20Tax%20Procedure%20-%20Blank_0.pdf (accessed on 10 November 2023).
- Bredin, Jean-Denis. 2001. Secret, transparence et démocratie. *Pouvoirs* 97: 5–15. [CrossRef]
- Bucharest Chamber of Notaries Public. 2023. Secretul Profesional. Available online: <https://cnpb.ro/secretul-profesional> (accessed on 1 December 2023).
- Campbell, John R. 2020. Interrogating the Role and Value of Cultural Expertise in Law. *Laws* 9: 29. [CrossRef]
- Case Mancevschi v. Moldova. n.d. Case Mancevschi v. Moldova (ECLI:CE:ECHR:2008:1007JUD003306604). Available online: [https://hudoc.echr.coe.int/eng#%7B%22itemid%22:\[%22001-88719%22\]%7D](https://hudoc.echr.coe.int/eng#%7B%22itemid%22:[%22001-88719%22]%7D) (accessed on 23 November 2023).
- Case Michaud v. France. n.d. Case Michaud v. France (ECLI:CE:ECHR:2012:1206JUD001232311). Available online: [https://hudoc.echr.coe.int/fre#%7B%22itemid%22:\[%22001-115377%22\]%7D](https://hudoc.echr.coe.int/fre#%7B%22itemid%22:[%22001-115377%22]%7D) (accessed on 23 November 2023).
- Case of Iordachi and Others v. Moldova. n.d. Case of Iordachi and Others v. Moldova (ECLI:CE:ECHR:2009:0210JUD002519802). Available online: [https://hudoc.echr.coe.int/fre#%7B%22itemid%22:\[%22001-91245%22\]%7D](https://hudoc.echr.coe.int/fre#%7B%22itemid%22:[%22001-91245%22]%7D) (accessed on 23 November 2023).

- Case of Kopp v. Switzerland. n.d. Case of Kopp v. Switzerland (Application no. 23224/94 Judgment 25.3.1998). Available online: <https://hudoc.echr.coe.int/%3Econversion/pdf> (accessed on 23 November 2023).
- Case Pruteanu v. Romania. n.d. Case Pruteanu v. Romania, ECLI:CE:ECHR:2015:0203JUD003018105). Available online: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-176176%22%7D> (accessed on 23 November 2023).
- CJEU. 2022. CJEU, Judgment Rendered on 8th December 2022, in Case C-694/20. Available online: <https://curia.europa.eu/juris/fiche.jsf?id=C;694;20;RP;1;P;1;C2020/0694/J&nat=or&mat=or&pcs=Oor&jur=C,T,F&num=C-694%252F20&for=&jge=&dates=&language=en&pro=&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&oqp=&td=;ALL&avg=&lgrec=en&lg=&cid=4399228> (accessed on 15 October 2023).
- Council of Bars and Law Societies of Europe (CCBE). 2013. *Charter of Core Principles of the European Legal Profession and Code of Conduct for European Lawyers*. Brussels: Council of Bars and Law Societies of Europe CCBE, p. 15. Available online: https://www.ccbe.eu/NTCdocument/EN_CCBE_CoCpdf1_1382973057.pdf (accessed on 13 October 2023).
- Craig, Paul, and Grainne De Burca. 2020. *EU Law—Text, Cases, and Materials*, 7th ed. Oxford: Oxford University Press.
- Demin, Alexander V. 2020. Certainty and Uncertainty in Tax Law: Do Opposites Attract? *Laws* 9: 30. [\[CrossRef\]](#)
- DLA Piper. 2021. Legal Privilege Global Guide—Full Handbook. Available online: www.dlapiperintelligence.com (accessed on 4 December 2023).
- Ernest and Young. 2023. *Tax Alert—Canada New Mandatory Disclosure Rules Are Now in Effect*. Issue no. 29/2023. Available online: https://www.ey.com/en_ca/tax/tax-alerts/2023/tax-alert-2023-no-29 (accessed on 20 November 2023).
- Evans, Tony. 2011. Professionals, Managers and Discretion: Critiquing Street-Level Bureaucracy. *The British Journal of Social Work* 41: 368–86. Available online: <http://www.jstor.org/stable/43771418> (accessed on 15 November 2023).
- Evans, Tony, and John Harris. 2004. Street-Level Bureaucracy, Social Work and the (Exaggerated) Death of Discretion. *The British Journal of Social Work* 34: 871–95. Available online: <http://www.jstor.org/stable/23720514> (accessed on 23 November 2023).
- Frankel, Mark S. 1989. Professional Codes: Why, How, and with What Impact? *Journal of Business Ethics* 8: 109–15. Available online: <http://www.jstor.org/stable/25071878> (accessed on 23 November 2023).
- Haglund, Magnus. 2009. *Enemies of the People—Whistle-Blowing and the Sociology of Tragedy*. Stockholm: Acta Universitatis Stockholmiensis.
- Hart, Herbert Lionel Adolphus. 1961. *The Concept of Law*. New York: Oxford University Press.
- Herzog, Bodo. 2021. Hidden Blemish in European Law: Judgements on Unconventional Monetary Programmes. *Laws* 10: 18. [\[CrossRef\]](#)
- Kolliarakis, Georgios. 2017. In quest of reflexivity: Towards an anticipatory governancy regime for security. In *Surveillance, Privacy and Security—Citizens’ Perspectives*. Edited by Michael Friedewald, J. Peter Burgess, Johann Čas, Rocco Bellanova and Walter Peissl. New York: Routledge.
- Laby, Arthur R. 2004. Resolving Conflicts of Duty in Fiduciary Relationships. *American University Law Review* 54: 75–149.
- Lannoo, Karel. 2021. Anti-Money Laundering in the EU. Time to Get Serious. CEPS-ECRI Task Force Report, Brussel 2021. Available online: https://www.ceps.eu/wp-content/uploads/2021/01/TFR_Anti-Money-Laundering-in-the-EU.pdf (accessed on 15 October 2023).
- Longobardo, Marco. 2020. The Relevance of the Concept of Due Diligence for International Humanitarian Law. Available online: https://wilj.law.wisc.edu/wp-content/uploads/sites/1270/2020/07/37.1_44-87_Longobardo.pdf (accessed on 20 November 2023).
- Luban, David. 2007. *Legal Ethics and Human Dignity (Cambridge Studies in Philosophy and Law)*. Cambridge: Cambridge University Press. [\[CrossRef\]](#)
- Lupo, Giampiero, and Davide Carnevali. 2022. Smart Justice in Italy: Cases of Apps Created by Lawyers for Lawyers and Beyond. *Laws* 11: 51. [\[CrossRef\]](#)
- Mares, Radu. 2018. Human Rights Due Diligence and the Root Causes of Harm in Business Operations—A Textual and Contextual Analysis of the Guiding Principles on Business and Human Rights. *Northeastern University Law Review* 10: 1–70.
- McGroarty, Emmett, and Brendan McGroarty. 2023. Privacy, Property, and Third-Party Esteem in Arendt’s Constitutionalism. *Laws* 12: 75. [\[CrossRef\]](#)
- Mescher, Barbara. 2021. Theoretical Legal Ethics: Corporate Lawyers and Aristo-Kantian Moral Philosophies. Ph.D. thesis, UNSW Sydney, Sydney, Australia. [\[CrossRef\]](#)
- Negrut, Vasilica, and Ionela-Alina Zorzoana. 2023. Theory of Endorsements: Legislative and Jurisprudential Development in Romania and in the European Union. *Laws* 12: 83. [\[CrossRef\]](#)
- Organization for Economic Cooperation and Development (OECD). 2010. Policy Framework for Effective and Efficient Financial Regulation. Available online: <https://www.oecd.org/finance/financial-markets/44362818.pdf> (accessed on 4 December 2023).
- Organization for Economic Cooperation and Development (OECD). 2015. Comments Received on Public Discussion draft BEPS Action 12: Mandatory Disclosure Rules. Available online: <https://web.archive.oecd.org/2015-05-04/358212-public-comments-beps-action-12-mandatory-disclosure-rules.pdf> (accessed on 15 November 2023).
- Pillay, Nirmala. 2021. The Promise of the EU Charter of Fundamental Rights (and Brexit) on the Implementation of Economic and Social Rights among EU Member States. *Laws* 10: 31. [\[CrossRef\]](#)
- Rhode, Deborah L. 1985. Moral Character as a Professional Credential. *The Yale Law Journal* 94: 491–603. [\[CrossRef\]](#)
- Richards, Neil M. 2013. The danger of surveillance. *Harvard Law Review* 126: 1934–65.
- Robertson, Michael, and Kieran Tranter. 2006. Grounding legal ethics learning in social scientific studies of lawyers at work. *Legal Ethics* 9: 211–28. [\[CrossRef\]](#)

- Salmerón-Manzano, Esther. 2021. Legaltech and Lawtech: Global Perspectives, Challenges, and Opportunities. *Laws* 10: 24. [\[CrossRef\]](#)
- Schott, Paul Allan. 2006. *Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism*. Second Edition and Supplement on Special Recommendation IX. Washington, DC: The World Bank.
- Singh, Danny. 2021. Anticorruption, Cultural Norms, and Implications for the APUNCAC. *Laws* 10: 23. [\[CrossRef\]](#)
- Stefanelli, Justine N. 2011. The negative implications of EU Privilege law under ‘AKZO NOBEL’ at home and abroad. *The International and Comparative Law Quarterly* 60: 545–56. Available online: <http://www.jstor.org/stable/23017013> (accessed on 4 September 2023).
- Stupariu, Doina, and Andreea Girigan. 2018. Secretul Profesional. Available online: https://www.unbr.ro/wp-content/uploads/2018/03/SECRETUL-PROFESIONAL-av_Doina_Stupariu.pdf (accessed on 4 September 2023).
- Tofan, Mihaela. 2022. *Tax Avoidance and European Law Redesigning Sovereignty Through Multilateral Regulation*. London: Routledge. [\[CrossRef\]](#)
- Tofan, Mihaela. 2023. The Recent Jurisprudential View on the Antagonism Professional Secret—Obligation to Inform the Case of Suspicion of Tax Fraud. *Cluj Tax FJ* 6: 8.
- Tofan, Mihaela, and Crina Mihaela Verga. 2023. *Drept Institutional al Uniunii Europene*. Bucharest: Ch Beck Publishing House.
- Torbert, Preston M. 2021. Because it is wrong: An essay on the immorality and illegality of the online services contracts of Google and Facebook. *Journal of Law, Technology & The Internet* 12: 2.
- Tzemos, Vasileios G., and Konstantinos Margaritis. 2021. The Charter of Fundamental Rights of the European Union: The First Ten Years-New Challenges and Perspectives. *Laws* 10: 76. [\[CrossRef\]](#)
- Van Gerven, Dirk, ed. 2013. *Professional Secrecy of Lawyers in Europe*. Cambridge: Cambridge University Press.
- Ward, Halina. 2005. Corporate Responsibility and the Business of Law. Available online: <https://www.iied.org/sites/default/files/pdfs/migrate/G00195.pdf> (accessed on 25 November 2023).
- Wolski, Bobette. 2013. An Evaluation of the Rules of Conduct Governing Legal Representatives in Mediation: Challenges for Rule Drafters and a Response to Jim Mason. *Legal Ethics* 16: 182–215. [\[CrossRef\]](#)
- Yeh, Stuart S. 2022a. New Financial Action Task Force Recommendations to Fight Corruption and Money Laundering. *Laws* 11: 8. [\[CrossRef\]](#)
- Yeh, Stuart S. 2022b. New OSCE Recommendations to Combat Corruption, Money Laundering, and the Financing of Terrorism. *Laws* 11: 23. [\[CrossRef\]](#)
- Young, Mark D. 2018. Electronic Surveillance in an era of modern technology and evolving threats to national security. *Stanford Law and Policy Review* 3: 2018.

Disclaimer/Publisher’s Note: The statements, opinions and data contained in all publications are solely those of the individual author(s) and contributor(s) and not of MDPI and/or the editor(s). MDPI and/or the editor(s) disclaim responsibility for any injury to people or property resulting from any ideas, methods, instructions or products referred to in the content.