



Warum die Selbstgeldwäsche straffrei bleiben muss: Why self-money laundering must remain exempt from punishment (German Edition)

Christian Schröder, Marcus Bergmann

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Die Autoren untersuchen die Straflosigkeit der "Selbstgeldwäsche" in Deutschland. Von Selbstgeldwäsche spricht man, wenn jemand die Erträge aus seiner eigenen Vortat verbirgt, ihre Herkunft verschleiert oder eine sonstige Geldwäschebehandlung daran vornimmt.

Er wäscht sozusagen selbst, ohne Unterstützung durch weitere Personen. Bisläng ist die Selbstgeldwäsche nach § 261 Abs. 9 Satz 2 StGB straflos. Allerdings gibt es Überlegungen - angestoßen durch die Financial Actions Task Force -, in Deutschland die Selbstgeldwäsche unter Strafe zu stellen. Die Autoren analysieren daher, ob das deutsche Recht diese Straflosigkeit erfordert oder die Bestrafung der Selbstgeldwäsche anordnen könnte.

Sie kommen zu dem Ergebnis, dass die Selbstgeldwäsche straflos bleiben muss. Alle Überlegungen zu den Regelungszielen und denkbaren Rechtsgütern der Geldwäsche laufen darauf hinaus, dass die Straflosigkeit der Selbstgeldwäsche aus dogmatischen und verfassungsrechtlichen Prinzipien, die zu den Grundsätzen der deutschen Rechtsordnung zu zählen sind, notwendig ist.

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