

## **MONEY LAUNDERING – AN INTERNATIONAL PHENOMENON**

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### **Abstract:**

*The new millennium brought along the globalization of the world's markets, and an unprecedented increase in the national economies too. The development of the global economy favored that of the transnational organized crime and terrorism.*

*The increase of the funds resulted from the organized crime's activity determined an augmentation of the necessity to recycle these funds, generating the alarming situation in which the underworld leaders and the operators involved in the money laundering could control the economy or parts of it.*

*The laundering of funds affects the free access to the investment funds, the legal labor market, the retail trade, the consumership and the production itself.*

*The International Community analyzed the etiology and outcome of the business criminality, and recommended to the states members to take action in order to limit it, but the diversity of the legislations and the social-economic peculiarities worldwide made almost impossible the consecration of an accurate definition of business criminality.*

*The authors of the present article conclude that only the consecration of a common legal body shall help the competent national and international institutions in their cooperation to reduce and eradicate the money laundering.*

**Key words:** money laundering, organized crime, business criminality, transnational economy, international cooperation.

The new millennium brought along not only a significant globalization of the world's markets, but also an unprecedented increase in the national economies. Obviously, such processes favored the development of the global economy, but also that of the transnational organized crime and terrorism.

The continual increase in volume of the funds obtained as a result of the organized crime's specific activities determined an augmentation of the necessity to recycle these funds at such extent that generated the alarming situation in which the underworld leaders and the operators involved in the money laundering could control and even influence, in some countries, important branches of the economy, finances, politics and administration. The laundering of funds acquired in the illegal activities directly affects the free access to the investment funds, the legal labor market, the retail trade, the consumership and the production itself.

The late XX century and the early XXI century revealed the remarkable amplitude of the economic activities undertaken in the most developed and industrialized countries from Europe, America, South-Eastern and Eastern Asia. Nowadays the international economic relations experience a dynamism that is unprecedented in the history, new states and economic systems being integrated as well<sup>182</sup>.

It is beyond a shadow of a doubt the fact that within this endless territory of the economy a massive number of illegal affairs initiates itself, develops and transacts, which forms what is often known as the business criminal phenomenon.

The fraud affects the economy in its entirety<sup>183</sup>, causes enormous financial losses, weakens the social stability, threatens the democratic structures, determines the loss of trust in the economic system, corrupts and compromises the economic and social institutions.

Concerned by the business criminality issue, The International Community analyzed its etiology and its outcome, recommending to the states members to take actual measures for its limitation. In this matter, the diversity of the legislations combined with the social-economic peculiarities deriving from the development studies of both the European and other states, made virtually impossible the consecration of an accurate definition of business criminality.

The business criminality involves two dimensions:

- the national dimension;
- the international dimension.

The national dimension points to the amount of the offences that are incriminated in the criminal law or in the special laws of each and every country, offences that occur within the economic and financial system and don't involve nor include any foreign element.

The international dimension designates the sum of the offences that occur and finalize in the presence of the foreign element that can be represented by persons, firms, corporations, banks.

These two dimensions never had nor will have a static character<sup>184</sup>. Nowadays it is obvious the internationalization of the criminal type of business, in the most notorious cases of contraband, tax evasion, drug traffic, illegal import-export operations, the criminal partnership perfected itself. The alcohol or tobacco

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<sup>182</sup> Dragos Alexandru Sitaru, *Internationala commerce law*, Bucharest, 1996, p. 154.

<sup>183</sup> Constantin Enescu, *External commerce analysis methods*, Bucharest, 1993, p. 69-75.

<sup>184</sup> Nicolae Hoanta, *The tax dodging*, Tribuna Economica Publishing House, Bucharest, 1997, p. 99.

smuggling, the drug dealing and the arms traffic cannot be even conceived, these days without the involvement of the businessmen from around the world.

In such context it is relevant the list with the offences that are circumscribed to the phenomenon of the business criminality, as it was stated by the European Committee on Crime Problems:

- offences regarding the forming of the cartels;
- frauds and abuses done by the multinational corporations;
- access by fraud or misappropriation of financial funds given by the state or by the international organizations;
- offences in the I.T. domain (I.T. criminality);
- the establishment of false societies;
- forgery in the business account and the violation of the legal duty to keep the business account;
- frauds which are affecting the commercial status and the registered capital;
- frauds against creditors (bankruptcy, intellectual and industrial property violations);
- offences against consumers;
- disloyal competition;
- fiscal offences;
- corruption;
- offences concerning the stock market and bank;
- offences on the exchange rate of a currency;
- offences against the natural environment.

Once the actual offensive against some components and segments of the business criminality started (against tax evasion, smuggling, corruption) different aspects were revealed, some astonishing in their proportion. It was enough, for instance, to be discovered important, more or less, frauds concerning the destination of the subventions given within the Common Market<sup>185</sup>, in the activity of the producers and of the exporters of food and agricultural goods, to start a rigorous analysis which revealed huge frauds done in this field in Italy, but only during the years 1985-1996, after complex investigations and inquiries, the true dimensions and the real face of the mob organizations were unveiled, of which the authorities haven't been spoken for three or four decades.

In Germany and in the other states of the European Union, only now, after more than twenty years, it is spoken about the role of the organized crime in the illegal migration of the Turkish, Arabian, Romanian, Serbian citizens, in the name of the right of the citizens to free circulation, with the encouragement from the legal authorities.

As a result, it can be stated that these criminal constructions are builder and developed, in their vast majority, on the interest and with the support of the state's

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<sup>185</sup> Teodor Mrejeru, Dumitru Andreiu, Petre Florescu, Dan Safta, Marieta Safta, *The tax dodging*, Tribuna Economica Publishing House, Bucharest, 2000, p. 46-49.

authorities, their genesis must be searched inside the perimeters of the power circles.

This state of facts determines the authorities not to reveal the real dimensions of the criminality but in troubled times. Each and every new government is only preoccupied to reveal and prove just how corrupt was the prior government, refusing to accept the fact that different aspects of the business criminality and of the organized crime will be perpetuated and will intensify, sometimes even to much higher levels.

The excessive politicizing of the activities demanded by the fight against criminality is the fundamental cause for the weak response to the danger that the criminality poses, the element that determines the strong consolidation of it in the present society.

In this type of climate that is on a friendly ground the structures that work in the business criminality field established for them, developed and perfected a redoubtable management, which features maximum effectiveness, rigorous specialization, cutting-edge logistics, superior by far to that of the law enforcement. In this matter are relevant the allegations that Giovanni Falcone, the famous Italian judge assassinated by the Cosa Nostra in May, the 23-rd, 1992, made:” The mob is a logical world, more rational and more adamant than the state itself. The mob is an articulation of power, a metaphor for it, but also pathology of power. The mob is an economic system, an indispensable component of the global economic system. The mob develops due to the state and adjusts its behavior according to the state”.

The financial product of the illegal affairs done by the groups of the organized crime has massive dimensions. The dirty money that circulate, practically on plain sight, constitutes the oxygen that provides strength to the perpetrators which are near or even in the core of the power structures that guarantee and cover up their criminal activities.

The analysts of the business criminal phenomenon warn on the fact that significant funds resulted from the illegal affairs are pumped into organisms and political administrative structures, in order to keep these structures in power and to be able to guarantee the success of the criminal organizations in the vastness of the dirty business initiated.

The main target for these organizations is that of making the structures which are competent to fight them inoperative, inefficient and sometimes even that of paralyzing these structures.

Many years ago, the fusion of the elites took place in Romania too: the underworld elite and the public life elite. These two elites act against law and order, in the degrading perimeter of immorality, affairs on false pretences, luxury and debauch.

The agents of these elites own restaurants, casinos, profitable business, fashion firms, hotels, luxurious cars, media trusts, television posts and substantial bank accounts overseas.

It is, without question, clear to most common people that helplessly witnesses this spectacle, that in the area overtaken by the organized crime,

professionals in trade, investments, finance and banking act in a perfect coordination with the power agents.

The major illegal affairs cannot be initiated, conducted and perfected in the absence of a partnership between the local organizations and those that act in other states<sup>186</sup>.

The money laundering most often takes place in several different states at the same time, sometimes even in different areas of the world. This is why the international cooperation through the judicial institutions such as the extradition, the rogatory commission, foreign definitive decisions' enforcement, distraint and confiscation of objects resulted from criminal acts done in other states, as well as new methods of cooperation between the national agencies from different states.

Only the existence of a common body of laws can help the institutions from different states in their effort to efficiently cooperate in this matter. Nevertheless, the international institutions that are competent in this field – Europol, Interpol, Eurojust – are outmost important.

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<sup>186</sup> Viorel Florescu, *Banking and budgetary law*, Bucharest, 2006.