

MONEY LAUNDERING AND THE EFFECTS ON NATIONAL ECONOMIES

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Abstract: The beginning of the XXI century has been marked, besides other events, by the globalisation of the economic-financial phenomenon, founding organised crime corporations and syndicates. These can influence more and more the economical and social processes, as well as politics, following two fundamental purposes: obtaining profit and power. This is way adoption of concrete measures on regional and global level is required, in order to reduce and counteract the economic-financial delinquency, in general, and the illegal money laundering especially.

Taking into account the modest experience that I have within the field, in this paper I have tried to give a general image over the money laundering phenomenon and make a brief presentation of the appearance of the phenomenon, of generating causes, of these kind of actions' subjects, operation modalities and decisive factors. Moreover, I have tried to present the legal incrimination in Romania, as well as the necessity of more flexible legal provisions that lead to the reduce of evil effects of these financial mechanisms over the national economies.

The global economic growth has determined progress but has also generated a development of methods and techniques of obtaining „black” capital. The owners of such capital have tried and are still trying to give this concept a legitimate approach. Generically speaking, the black capital is the amount of money or any other patrimonial values acquired by one or more persons after deliberately committing a deed condemned by the law or participating in committing such action, having as purpose and result the obtaining of illegal profits.

Within this context, in Romania, following the transition to the market economy, we can observe the increase of the „professionalism” and inventiveness of people whom are interested to maintain a submerging economy for avoiding the legal financial mechanism; the obvious purpose is to obtain some amounts resulted from underground activities and to recycle goods and values acquired illegally.

The phenomenon of money laundering is not an invention of the modern world: the historical sources show that in China, in 2000 b.Ch., the merchants have found different ways to protect their fortune from the leaders of that time that had the tendency to confiscate these fortunes by using force. This fact led to the use of the amount of money obtained from the trade of goods in countries outside the borders.

The phenomenon has grown, reaching its climax at the beginning of the XXth century, when the prohibition of gambling in the U.S.A has led to the obtaining of fabulous amounts of cash by those whom have tried to break the embargo.

Nowadays, the decrease and the control of the phenomenon of money laundering has caused the elaboration of strict regulation regarding the illegally obtained money recycling by financial institutions (banks), one of the essential measures imposed by these institutions is regarding the knowledge of the client and the compulsoriness of making some reports.

In conclusion, we may say that money laundering is a complex process in which the illegally obtained incomes are transported, transferred or accumulated to legitimate funds in order to hide their true nature, origin, disposing, movement or the ownership of such profits.

Within Romanian legislation, the charge regarding money laundering is set by law no. 656/2002 regarding the prevention and punishment of money laundering, with modifications and completions brought by law no. 230/2005.

According to the law, money laundering means:

a) the change or transfer of goods, knowing that they result from committing crime, in order to hide or dissimulate their illegal origin or to help the person who committed the crime that generated the origin of these goods to avoid legal proceedings or execution of sentence;

b) the hide or dissimulation of true nature or origin, position, disposition, circulation or ownership of goods or other related rights, knowing that they result from committing crime;

c) the obtaining, possession or use of goods, knowing that they result from committing crime.

The subjects of money laundering can be:

- smugglers
- procurers
- drug/weapon dealers
 - slave dealers, for sexual/labour exploitation
 - emigrants/immigrants traffickers
 - human organs traffickers
 - car thieves
 - blackmailers
 - banks'/ financial institutions' personnel
 - notary public, etc.

In judicial practice, the person who helps the delinquent to build up the scheme or the money circuit is also considered as „washer”, even if he does not take part at the money recycling process.

The money laundering is carried out throughout a three step process, as following:

1. Placement = the delinquent places the illegal profit into the financial system by dividing the big amount of cash into smaller amounts and less suspect, which are then directly deposited into a bank account or by buying a certain number of financial instruments, which are then collected and deposited in accounts existing in other locations.

2. Stratification = the process of money movement between different accounts for hiding their origin. The author of money laundering commits a series of changes or movements of the funds, in order to remove them from their source of origin. In this way, the funds can be directed towards the purchase and sell of investment instruments or he may just transfer electronically the funds into a series of accounts from different banks from all around the world. The jurisdictions that are geographically separated are preferred; they do not cooperate in the investigations related to money laundering control. There are situations in which the authors of money laundering may mask the transfers as payments for goods and services, giving them a legitimate appearance.

3. Integration = the illegally obtained funds re-enter in the legal economic circuit and the author can invest these funds on the real estate market, luxury goods market or

business market. If the stratification process is successful, the integration schemes will send again the money laundering results in the economic circuit, so they will re-enter in the financial system, appearing as normal and clean funds, obtained from trade activities.

The tree fazes may exist separately and distinctly, but also simultaneously and more often, they may overlap.

Throughout their illegal methods, the delinquents can invest in economy's sectors where the assets may be used afterwards as money laundering machines. Besides, the lack of control over this phenomenon may undermine the financial stability, even if the advanced technology and globalization allow a quick transfer of funds. In a country with a precarious financial situation, the drawing out of millions or billions of euros from the normal process of economic growth is a real danger for its credibility, economic stability and national security.

In order to apply the existing legislation in this matter, the Romanian legislator has created, according to art. 19 from the law no. 656/2002, a specialized institution, namely the National Bureau for Prevention and Fight against Money Laundering, subordinated to the the Government.

In the last period, the phenomenon of money laundering has developed in our country too, using sophisticated procedure and techniques that leads to the total hiding of these illegal funds' origin. In order to present the operation manner regarding money laundering in our country, we have to mention the money laundering methods and procedures.

Money laundering methods

Basic rules of money laundering

a) **Anonymity** – is one of the rules of money laundering, according to which the transaction with the goods obtained from committing infractions must be similar to other legal transactions from the places where these take place. Basically, the cash does not have to leave any marks which can lead to its origin. In economies where cash is often used for bigger or smaller value purchases, its disposing presents no risk for the delinquent. Anyways, in the majority of countries, almost all transactions with big amounts are not using cash but other means of payment (cheques, promissory notes, credit cards), so that the spending or the deposit of big amount of cash becomes suspicious.

Because of this, the delinquents have created various techniques and methods of introducing cash in the financial system, such as:

7. the division of big amount into smaller amount and their deposit into various bank accounts by different people or the use of these amounts fro the purchase of other payment instruments, such as bearer bonds or cheques;

8. cash smuggling: by the simple, illegal removal of a certain amount of money from the country and its introduction into another country with less restrictive rules, usually done by couriers or by hiding the respective amount on cargo ships;

9. the mixing of the illegal funds with those resulted from a legal business with cash, amounts that are afterwards deposited together.

b) **Speed** – the rapid circulation of values, in order to not be detected. Once that the cash has entered the financial system, even if it is in its country of origin or not, the author of money laundering can use the advantages created by the progress of informatics (IT), the modern methods of money transmission, in order to place them into circulation. The electronic bank transfers can move huge amount of money almost

anywhere in the world in only a few minutes, without implicating the bank personnel or going to the bank.

c) **Complexity.** By splitting his funds into more transactions and taking into consideration the speed of these transactions, the „washer” makes it difficult and sometimes impossible for the investigators to re-create the course of money. The transfers from one account into several accounts from another countries and their further re-orientation from those countries, create a multinational complex electronic circuit that makes it difficult for the investigators to pursue them.

d) **The secrecy.** In spite of the fact that the banking secrecy has a legitimate purpose and a commercial justification, this can lead to the birth of some financial paradises that offer protection to delinquents; there are more than a million anonymous corporations worldwide that impose a strict financial secrecy and protect foreign investors from inquiries and legal investigations.

The money laundering procedures can be classified in two distinctive groups: money laundering by using internal operations and money laundering by using external operations.

I. Money laundering by using internal operations

Taking into consideration the fact that it is almost impossible to analyze all the aspects of the money laundering forms and procedures throughout internal operations, we will present you only the ones that were applicable within financial practice in Romania.

A. Money laundering by using investment operations

a. Real estate investments.

The real estate in Romania remains one of the biggest sources of fraud. In this matter, a prejudice has been brought to the state, to local administrations and, in the end, to the tax payers. Besides the fact that real estate investment facilitates the evasion of financial control for illegal profits, it is also the refuge for illegally obtained funds, therefore any measure taken in order to tax the legal commercial and financial activities, will influence the illegal funds, too. The procedure used in this case consists in obtaining of funds resulted from illegal or legal activities and the purchase of real estate at the market price. The buyer and the seller agree to declare in the contract only a part of the real price, the difference being laundered money. The declared part may be justified as money coming from legal activities. The seller also declares at the tax office a smaller amount compared to the real one, the rest being directed towards the black market.

b. Throughout art investing companies.

The criminal organizations obtain money by using fraud. An investment society is created afterwards, that offers art items for sale with monthly, quarterly, half-yearly rates or on long term payments. The investors are chosen from those who have legal or illegal black money. A private trade contract with art items is simulated, in which the seller is the client that launders money and the buyer is the investment company. This way a patrimonial growth is justified, equivalent to the trade. These contracts are usually as old as the time limit in which the prescription for fraud operates, so that the financial control can not act otherwise.

c. Opaque financial assets investments and real estate investments.

After obtaining substantial black funds, a real estate company is created, with partners represented by interposed persons and having as sole administrator a representative connected to the people who realize profits that avoid taxation. The

company invests temporarily the funds for purchasing „opaque assets”, followed by the selling of these assets. The previously created company is also residing in different real estates, mentioning smaller prices. The difference between the real price and the registered one represent black laundered money, that are afterwards placed in secret accounts opened in „financial paradises”, in the name of the seller.

B. Money laundering throughout commercial operation and services.

a. Registration of higher benefits than real ones.

This is an ideal commercial activity factor for the laundered money of illegal origin and for the embezzlement of public finances, dealing often with cash sells, without documents, directly made to the final consumer (bars, laundries, restaurants, clubs, etc.), without the control of the data precision by the financial institutions. Generally, this type of recycling knows the following stages: the development of fraudulent activities that generates fraudulent benefits; the development of a commercial activity within the services sector, that permits the evasion of the specialized institutions' control; registration of higher benefits than the real ones, that come, in fact, from fraudulent actions. The so obtained benefits are legally invested in other sectors of activity that are very profitable.

b. Profits obtaining throughout gambling activities.

Nowadays, the „launders” have directed their attention towards the non-banking financial operators (exchange offices, operators that use electronic transfer, etc.). The most traditional non-banking financial institutions used by the „launderers” are the casinos that execute several financial services. They change the cheques into cash, exchange foreign currency, offer save boxes for secret deposits and pay big amounts of money in bank documents. Furthermore, they frequently offer loans, meaning that one can deposit his money at one casino and withdraw them from other casino from another jurisdiction. The casinos mean a great deal for those whom acquire money illegally, because they are the perfect places for arrangements, gambling and especially money laundering. The wealthy delinquents, stigmatized by Romanian society, are welcome into casinos, and are symbolically called „big funds' movement tycoons”. Taking into consideration the character of activities and the favorable environment of casinos, they can easily place all their illegal gains, maintaining a certain anonymity.

In the last years, the casinos have known a great development in our country, being placed especially in big cities and touristic ones. Although strict legal regulation is imposed, money laundering is made without difficulties and help from the managers.

Casinos attract those who want to launder money, because they represent the place for instance business with cash and provide financial services similar to banking services. Some of the well known casinos from Bucharest manipulate more foreign currency than a medium banking branch and maintain a real control over some huge amounts of cash. The frequent clients of casinos deposit financial funds as small value banknotes and at the release, they get 100 euro banknotes or casino cheques. Furthermore, casinos are obliged to deposit the smaller banknotes at the banks where they are clients and receive 100 euro banknotes. The structure of these bank-casino transaction provide an ideal protection for those who want to „re-finance” a great deal of street money. In this way, an analyzing program initiated by the Government over the general flux of cash that enters into bank accounts, having the casinos as clients, will be disabled when trying to see if the „refining” took place.

The fact that these casinos accept the deposits, cash cheques and that they provide deposit operations, as well as transfers overseas it is not publicly known. It is known

that these services are provided to facilitate gambling, but not that they can be transformed into money laundering activities. A well organized hiding place for gambling is not only an obvious place for diminishing the volume by exchanging small banknotes, but also a valid income source. There is no control of the number of the counters bought and the plaid ones in casinos. Actually, one has to only go into a casino and buy counters for 1000 euro, play for some hours, cash them and tell his bank manager that he won 500.000 euro and he wishes to deposit them. Even more, a casino owner will not have to lie about playing at the roulette; he will simply put the money into the draw and make sure that they will be registered by his accountant into the profits column when doing the balance sheet.

c. The sell of lottery tickets or the awarded bets.

In this situation, the launderer takes advantage of the fact that the awards are tax free, so he tries to obtain a lottery award, to win a bet or other awards from official games. The person who wins the award sells immediately the winning ticket to a third party for a higher price than the award. Throughout this modality an equal amount of money is laundered. Moreover, the money can also be laundered within racing activities; the only sure way to realize this is by presenting the bet ticket on a winning horse or a cheque obtained from the bookmaker. Another way to launder money is to approach a bookmaker at the end of the race and dealing with him over a price for the winning horse. In this situation, the bookmaker can register a valid bet ticket as participating and introduce it into the circuit as bet in cash or credit. In both situations, it will appear as being the last bet places over the horse participating at the race.

Another method is the sell of a winning ticket by a lucky person right after the end of the race, but before the cash of the bet. The person who wants to launder the money will sustain that he owns the winning ticket, probated by its' registration into the bet register. The scheme is based on finding the owner of the winning ticket in time, offering a premium in exchange of the ticket and guarantee that the identity of the one placing the bet will remain secret. Furthermore, the last mentioned one will have to assume the risk of possessing a big amount of cash of illegal origin. When the money laundering implies small illegal amounts of cash, it is very likely that identification is avoided. It is difficult to prove money laundering throughout gambling, because they remain under a relative anonymity, the bets being easily manipulated and modified and the bookmakers are often cooperating with persons interested in laundering money. Apparently, the money obtained in this way are clean, won at a legal game.

A method often used for money laundering is the buying of a business that produces cash intensively. The illegal funds are masked as liquid money resulting from the business and can even be declared as taxable income, providing so its' complete legitimacy. This method has as secondary effect the growth of company's shares value by the artificial increase of its profits and therefore, the potential growth of a big capital. The first-line companies are usually using investments in cash businesses, such as bars, restaurants, hotels, car trade, selling companies and debt collecting agencies.

Another alternative of money laundering mechanism is the direct investment into a business without success, such as tourism agencies, assurance companies, etc.

The one who invests is buying a legitimate businesses that loses ground and afterwards manipulate the accounting files in order to demonstrate that the business is still profitable. Through the business, the financial funds for money laundering are proven to have a legal profit ground. The taking over of losses is a very expensive money laundering strategy that, normally, has only chances on short time period.

II. Money laundering by using external operations

It is another way used in our country more and more often. In general, the state control of the external trade operations has been conceived as a procedure to avoid economic imbalances and foreign currency crisis; as a result, strict regulation has appeared in order to restrict the free circulation of goods and values. This system has opened the way for radical modifications in understanding the economy. It has passed from a system having a strict control to a globalization of the economic activity and constant liberalization of external commercial and financial operations, so that some operations previously forbidden have become possible by soliciting an authorization or, in other situations, they are no longer verified or controlled, becoming totally free from restrictions.

The financial-economic delinquency uses external trade operations, financial operations and investment operations as instruments for hiding the origin of the benefits resulted from fraudulent activities. The complexity and variety of external trade operations offer the delinquent groups several forms of presenting illegal incomes as legal ones, so that money laundering has become a „sine qua non” condition. Money laundering throughout external trade operations has the following forms:

A. Money laundering throughout financial operations

a. Buying foreign currency in the country and the transfer overseas

In this way, the groups introduce into the country various goods that bring them high profits. These are exchanged into foreign currency at a higher course than the one existing on legal financial market, by using the black market. The so obtained foreign currency are placed within „financial paradises”, the transfers being realized by using intermediaries or by international transfer orders between banks, so that operations become official.

b. The introduction of drugs, foreign currency evasion and overseas transfers

The criminal organizations are introducing drugs in Romania. They have collaborators within the countries on the transit route of drugs. The payment for drugs is made in different transit cities, so that the foreign currency are illegally taken out of the country in order to be given to these collaborators. The payment can be made also through transfer orders into accounts from different countries, becoming in this way an official action.

c. The deposits into current accounts and their movement throughout successive transfer orders

The funds are introduced in current accounts. The owners and the commissioners of these funds are only the „straw man” and, in many occasions, they use false identities. Afterwards, by using transfer orders, the money are moved from original current accounts into other accounts, at different small credit institutions. The repayment is made by releasing cheques of the current accounts and the money transfer into financial institutions from the „financial paradises”. In the end, the transferred money go into banks from Romania or other countries.

d. The deposits into interposed companies' current accounts and into banks from overseas

The money obtained from legal or illegal activities that have avoided taxation are transferred into „financial paradises” and deposited into current accounts that have as owners the companies from that region. The purpose for such deposits is the placement of deposited money into investments that are highly profitable and guarantee the anonymity of the deponent, its identification being made by secret passwords.

Afterwards, the money placed into the „financial paradises” return to Romania and are invested into real estate activity, in the name of the company that owns the account. The benefits are held by the local deponent and he recovers the investment within the terms previously agreed upon.

e. Money laundering by simulating a loan or a credit.

The black money obtained in the country are deposited into a financial institution from a „financial paradise”; the transfer is than made in a bank from another country. Afterwards, by using the services of some interposed persons, the criminal organizations ask for a loan or a credit line at the same financial institution that realized the transfer. The real guarantee of the loan is the amount of money that has been transferred and deposited, even if some other apparent guarantees are mentioned in the contract. The so obtained credit line is invested into real estate or financial assets.

f. The compensation between clandestine financial institutions.

Besides official financial entities, there are clandestine financial intermediaries that do international commercial and financial operations. In this way, liquid money can be transferred, bonds or any other values in other countries, without any kind of documents or authority's control. These entities have a double accounting: an official one and a real coded one. This way, the funds obtained in Romania that avoid taxation are placed overseas. The members of criminal organizations have contacts in the clandestine financial institutions; their managers are, in the time, the owners of some import-export companies that can place these funds in any country, against a commission, in exchange of the secrecy of transaction. So, the illegally funds obtained in our country are placed to a foreign entity. This make contact with another entity of the same kind in the country where the placement is wanted, indicating the recipient that gets the funds from the last entity. The repayment is made by using a similar operation , but in reverse, without any movement of the money.

B. Money laundering throughout commercial activities

a. Import-export companies

In Romania, some companies are founded, having as main object is foreign trade with wood. These companies conclude exportation contracts with companies from other countries, from which they receive the money that have illegal origin. Sometimes, these operations are triangular, due to the appearance of an intermediary. The concluded contracts are simulated or over evaluated. For the payment of wood, they agree upon using a documentary credit line, asked by the importer to a bank from its country and used by the Romanian exporter in the national bank. In order to make payments and cash respectively, all export documentation is forged. Once the transfer is made, the funds are invested after converting.

b. The foundation of companies controlled by foreigners.

Some companies with mixt capital were founded having different capital percentage, but most of them having equal percentage of capital, 50% respectively. Later on, the Romanian associates have given their shares to foreign associates, so that the last ones took over the companies' control. Than, a physical introduction of funds was made in Romania, funds that were declared as benefits of the new founded companies. A double accounting was made for the evasion of control. With such funds, bonds issued by foreign credit entities or from less controlled activity sectors were bought .

c. Money laundering throughout investment operations

The main form of money laundering that has appeared in Romania consists in real estate investments, the withdrawal of the investment and the transfer of funds overseas. The criminal organizations in Romania have founded trade companies in other countries, declaring non-existent benefits, the funds resulting, in reality, from illegal actions, especially by smuggling alcohol and cigarettes. These so called benefits are then invested into real estate operations in Romania. After realizing a meaningful volume of real estate operations, they are sold and the resulted amounts are transferred physically or by other means of international payments into a financial institution from another country, for depositing. It has been noted that such monetary transfer is physically done or by over evaluated import operations, with the help of some customs officers.

The most used technique for money laundering put into practice in Romania remains the **smuggling with foreign means of payment**, respectively the physical removal overseas of important amounts resulted from tax evasion, false foreign currency traffic, slave traffic, smuggling with radio active substances, acts of corruption, etc. Taking into account the dimension of corruption from this perspective, we must recognize that the amounts of money claimed and received by the officials or other categories of people are invested into real estates, domains, luxury cars, works of art, jewellery, etc. It is well known that a considerable number of Romanian and foreign citizens have purchased in a relatively short period of time several real estates, domains from touristic regions, hotels, casinos, night clubs, the money invested in all these properties resulting from criminal actions.

A method of money laundering intensively used especially between 1991-1994 has been the **placement of some huge amount of money resulted from economic-financial delinquency into so called „helping circuits”**.

The economic circumstances and actual politics have helped Romania become a comfortable and easily accessible place for international criminal organizations for the investment of the illegal profits. After a longer period of activity in strictly limited conditions, the banks can conclude international transactions and found accounts for different clients, led by their own appreciation.

The presence on money resulting from criminal activities within legal money supply, initiates processes of unimaginable gravity at the level of Romanian financial system: the economic mechanism related to delinquency becomes an integrated economic circuit; the criminal elements accumulate resources from the public and private sector, becoming part of the financial system, although the majority of population live in poor conditions, characteristic of societies shattered by revolutions or great social crisis. The nonconformance phenomenon, the non-adaptation, etc., are producing social discomfort, giving uncertainty and insecurity to the citizen and society, driven by the explosion of delinquency; the acceleration of delinquency gives a great uncertainty, the political chaos transforms into a general confusion.

In our country, as well as in other Eastern European countries, due to the increase of competition, many companies are threaten by bankruptcy. There is a risk of developing contacts with organized crime organizations they in such cases, because they represent the only chance for obtaining necessary technical and commercial support. The financial system has a crucial role in fighting against the money laundering phenomenon. The recommendations from the international documents have to apply not only to banks, but equally to other banking institutions (CEC, Helping Houses, assurance companies, lending companies, pawn shops, etc.). Legal regulations

and the ones typical to the financial-banking system will prove their efficiency only after a concrete action of specialized operative structures against money laundering phenomenon.

The Romanian implication into the international system of fighting against money laundering has been proven to be not only necessary, but also useful, due to pragmatic reasons and because of the international solidarity.

The lack of well organized actions, coordinated at European and global level, will reduce the chances of prevention and efficient fight against organized crime.

In conclusion, Romania can not obtain capital by using money laundering, but has to struggle for the adaptation of own legislation to the international documents, in order to extend the cooperation and to strike all the forms of delinquency that have infiltrated the Romanian economy and try to stop it.

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