

THE LEVEL, EVOLUTION AND TRENDS OF THE PHENOMENON ON MONEY LAUNDERING

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Abstract

Money laundering is the process by which criminals create the illusion that the money they have is their own and they have the right to dispose of it as they wish, over time, using several methods to camouflage large sums of money resulting in following illegal business. The study and in-depth knowledge of the great diversity of criminal methods, brings to light, to counteract by legal action, crime both in a country and worldwide, being extremely useful in eradicating money laundering and underground economy procedures.

Key words: money; corruption; illicit; capital; criminal;

JEL Classification: K14; K22; K34;

I. INTRODUCTION

From a legal point of view, money laundering is defined as any attempt to participate in a monetary transaction that "puts at stake" goods of illicit origin. In order to obtain a conviction, the judicial authorities must prove that the accused has carried out financial transactions or transported funds from one country to another, all in connection with a particular illicit activity (Bătrîncea, Bejenaru, Trenca, Borlea, 2008, p. 231). The list of these activities is extremely long; it includes in particular bribery, counterfeiting, drug trafficking, espionage, extortion, fraud, murder, kidnapping, fraud and certain banking practices.

Thus, the phenomenon of money laundering is the concern to disguise the origin, nature, disposition and movement of funds from illicit activities with the ultimate goal of giving these funds the appearance of some results from legal activities.

The case law solved so far by the police in the field of economic-financial crime and drug trafficking (cases of smuggling, embezzlement and large-scale theft, illegal business in the field of banking and credit institutions) has allowed the definition of the notion of "dirty money". "Or" "black capital" and implicitly that of "money laundering" or "recycling of black capital".

II. THE LEVEL AND EVOLUTION OF MONEY LAUNDERING AT INTERNATIONAL LEVEL

Business crime, money laundering, tax fraud, drug trafficking and corruption are not new phenomena. These activities have developed over a long period of time. Today, these criminal activities have become so widespread that they overwhelm economic and social activity at all levels - regional, national and international - and are the germs of a serious political repercussion in some states and democracies with less solid foundations.

It is relevant that most illegal activities, especially those in the economic field, are carried out with a well-defined purpose, which revolves around the same goal, namely money, regardless of the form and manner of obtaining them.

The international community is facing a highly developed "underground" economy. In International Guideto Monetary Laundering Law and Practice, money laundering is defined as the criminal procedure by which the proceeds of crime are concealed and transformed by means of attempts to insert them into the financial system in order to give them the appearance of legal capital (Blum, 1998, p. 201).

According to recent studies conducted by the IMF, each year, the net profits from criminal activities represent US \$ 500 billion. The large-scale capital laundering index, in all industrialized countries, allows us to conclude that this phenomenon is directly proportional to all criminal activities in these countries (Boullanger, 2002, p. 46). At the same time, the globalization of financial markets, as a whole, has led to such a large volume of legal capital movement that money laundering funds can flow freely within the general flow. Thus, it becomes virtually impossible to distinguish legal capital from money laundering.

Currently, money laundering is characterized by:

- recording a trend of improving and expanding sophisticated "money laundering" techniques;
- increasing investments, based on capital from terrorist activities, drug trafficking and other illicit activities, in legal business, to capitalize on these funds and disguise their movements;

- internationalization of money laundering networks, which are operational in more and more countries and financial centers;
- deliberate mixing of illicit products, derived from criminal acts, in order to prevent and stop the investigations conducted by the competent authorities (Ciobanu, 2003, p. 65).

Most money laundering systems rely on complex financial transfers, which aim to transfer criminal products to foreign banks, often through "tax havens."

Capitals apparently use three main ways of "washing". A relatively small share of illicit funds is immediately reinvested in illegal activities, in order to increase the amount of these funds. A more substantial part is invested in easily penetrated sectors, with a high yield and a strong competitive level (constructions, agriculture, trade, tertiary sector, etc.) (Coopers, 2007, p. 43). Most of the capital, invested in hard currency, is exported to other states. For reasons of security and efficiency in management, organized crime delegates some financial experts to carry out international capital laundering operations, based on exploiting differences in financial and banking regulation between countries and jurisdictions.

Given the fact that the operations performed through this channel have, for technical reasons, a shorter or longer period depending on the amount of funds to be laundered, at this stage the counter-operations can be organized with the greatest efficiency (Ghinea, Bondarici, 2005, p. 68).

The basic steps of the washing cycle are well known: "placement", "storage" and "integration". The process of recycling capital in the financial system can be carried out in three stages using banks, other financial activities and commercial activities.

III. THE EVOLUTION OF THE INTERNAL MONEY LAUNDERING SYSTEM

The analysis of statistical data highlights the increase, extension and complexity of the criminal phenomenon and the emergence of new ways and means of committing crimes.

A characteristic of the period after 1990 is represented by the evolution of high levels of high-violence crime, an aspect that highlights the extreme aggression of criminals, doubled by an attitude of defiance of the law.

Currently, due to the implications arising from the current economic crisis, tax evasion and money laundering are techniques used by organized crime to accumulate capital needed for the survival of criminal groups (Lazăr, 2004, p. 98). The high need for liquidity and the high demand for credit, currently existing on the market, facilitate the actions of placing the capital obtained from committing criminal activities.

At the same time, the time required to carry out a controlled decentralization was not fully ensured, so that the centralized and planned management system could not be completely replaced by institutions and mechanisms of the market economy (Mănăilă, 2004, p. 289). The management apparatus of the economic agents proved incapable of exercising the activities specific to the principle of decentralization and decisional autonomy.

The main cause that facilitated the penetration of this criminal activity was the deep crisis, both in companies and autonomous utilities, being manifested by violating legal provisions on financial control, disintegration of security systems and structures of goods.

The intensification of drug trafficking on the Romanian territory is a reality that can no longer be ignored. The ever-increasing number of consumers and traffickers discovered, as well as the considerable quantities of drugs confiscated by the authorities, highlight the tendency to amplify this phenomenon. The sums of money resulting from the sale of drugs are used to purchase valuable goods or are invested in commercial business in Romania.

The most profitable illegal activities in this regard are the acts of high smuggling and tax evasion, materialized by the introduction in the country of large quantities of counterfeit cigarettes, alcoholic beverages, cosmetics and food, without being declared to customs and without being recorded in the accounting records.

The same impact has the smuggling acts, which consist in the illegal removal from Romania of important quantities of goods that are capitalized on the foreign market, most often with the complicity of customs officials.

The most used technique for money laundering, practiced in Romania, is represented by smuggling with foreign means of payment, respectively the physical removal across borders of important sums, from tax evasion, counterfeit currency trafficking, smuggling, etc.

Speaking about the dimension of corruption, another method used is to claim and receive sums of money by civil servants and invest them in the purchase of real estate, land, luxury cars, etc. In the series of crimes generating dirty money, trafficking in counterfeit means of payment is being noticed more and more often on the territory of our country (Moldoveanu, 1989, p. 156). At the same time, associated in many cases with counterfeit currency trafficking, the trafficking of stolen cars is also an obvious extension, a large number of Romanian citizens being recruited in the structures of organized criminal groups operating in Romania.

The improvement of these methods of committing the crime of money laundering has been facilitated by the prolonged lack of legal regulations designed to prevent and properly sanction this phenomenon.

IV. GLOBAL PROCESSES THAT PROMOTE THE ACCUMULATION OF ILLEGAL CAPITAL

The explosive accumulation of illicit capital is in close interdependence with a number of directive processes, the brief analysis of which allows a better understanding of the essence and dimensions of the phenomenon of money laundering.

Money launderers are constantly looking for new itineraries for their funds. Economies that have expanding or developing financial centers, but where controls are inadequate, are particularly vulnerable, especially as countries with well-developed financial centers apply comprehensive anti-money laundering devices.

Consequently, the disparities between national anti-money laundering regimes will be exploited by money launderers, who tend to move their networks to countries and financial systems that have not taken effective and rigorous measures against the phenomenon.

Developing economies cannot afford to be too careless about the source of the capital they attract; an attitude of indifference in this regard can be very dangerous (Hurdubaie, 1983, p. 105). The longer the authorities take to intervene against this phenomenon, the greater the risk that criminal organizations will become more entrenched (Reuvid, 1995, p. 311). Regarding the damage to the integrity of a financial institution in a given country, the volume of foreign direct investment may be reduced, if the commercial and financial sectors of that country come under the control and influence of organized crime.

Based on the conclusions drawn from the investigation of cases of money laundering and taking into account the recommendations contained in the said conventions, financial institutions should waive anonymous accounts and the possibility of registering account holders under visibly fictitious names (we refer in particular to financial institutions existing in tax havens). They should be required, through the development and application of legal regulations, to identify regular or occasional customers on the basis of an official document and to record this identity when establishing business relationships or conducting transactions (especially in situations where accounts are opened or performs significant cash transactions (Srivastava, Simpson, Powell, 2013, p. 32).

A. *The process of development and integration on the domestic and international level of illicit markets.* This development has led, especially in the last two decades, to an accelerated expansion of cross-border crime, which has been forced to establish specific links with the institutions that host "independent" capital. Carrying out an assessment of illicit markets that produce huge sums of money, we mention in particular the drug and weapons market.

Estimating international drug sales at about \$ 112 billion annually, the European Community working group estimates that more than \$ 85 billion is net profit, which is "laundered" (Voicu, 1997, p. 141). These estimates were made by direct and indirect methods that took into account global drug production, consumer needs and approximate quantities of narcotics traded worldwide.

B. Extremely important is *the issue of the clandestine economy*, a contemporary international process that includes all production and transactions recorded globally, in order to maximize profits through tax evasion. Currently, it is estimated that the clandestine economy has a share of 10-15% of the gross domestic product of developed countries.

C. *Another source of speculative capital is world debt, through the illegal exodus of loans to poor countries.*

Specialist studies show that a significant part of loans to the third world were not invested or spent locally, but returned to Western countries in the form of illegally exported capital, often deposited even by the banks that had granted the original loans.

Thus, with the obvious complicity of some of the most important banks, even the governments of developed countries, heads of state, ministers, senior officials in underdeveloped countries, organized crime networks have managed to make the biggest profits in contemporary history. The capital exodus was estimated only between 1976 and 1985 at over 200 billion US dollars. The processes presented above take place in interference or even in the general framework of the international financial world.

It should also be noted that capital apparently uses three main ways of "washing". A relatively small share of illicit funds is immediately reinvested in illegal activities, in order to increase the amount of these funds (Voicu, 1999, p. 56). A more substantial part is invested in easily penetrated sectors, with a high yield and a strong competitive level (constructions, agriculture, trade, tertiary sector, etc.). Most of the capital, invested in hard currency, is exported to other states. For reasons of security and efficiency in management, organized crime delegates some financial experts to carry out international capital laundering operations, based on exploiting

differences in financial and banking regulation between countries and jurisdictions (Voicu, Sandu, Dascălu, 1998, p. 194).

Given that the operations performed through this channel have, for technical reasons, a shorter or longer period depending on the amount of funds to be laundered, at this stage the counter-operations can be organized with the greatest efficiency.

The basic steps of the washing cycle are well known: "placement", "storage" and "integration" (Voicu, Voicu., Geamănu, 2006, p. 282). The process of capital recycling in the financial system can be carried out in the three stages using banks, other financial activities and commercial activities.

V. CONCLUSION

Those who want to launder money are always one step ahead of the authorities, by applying increasingly different techniques, increasingly exploiting legal economic opportunities - causing billions of dollars in damage to the world economy, resulting in the fact that the difference between the legal and the illegal economy is becoming more and more vague and will probably disappear over time.

The phenomenon of money laundering is the concern to disguise the origin, nature, disposition and movement of funds from illicit activities with the ultimate goal of giving these funds the appearance of some results from legal activities.

The globalization of organized crime and the huge profits it makes, the increasingly sophisticated methods used to launder money and the danger of destabilizing strong segments of the financial world, have led international bodies and executive structures in most states to initiate and implement a strategy aimed at to counter and limit the offensive of organized crime. Therefore, the concern of these authorities to limit the money laundering phenomenon to several categories of criminal acts, the most important ones, is motivated.

If not stopped or combated effectively, money laundering can cause "serious" social and political costs. Indeed, criminal organizations can infiltrate financial institutions, obtain or control entire parts of the economy through their investments, try to bribe public officials, or even corrupt entire governments.

The economic and political influence of criminal organizations can weaken social strata, undermine collective norms of ethics and, ultimately, undermine the democratic institutions of society. In countries in transition to democratic regimes, this criminal influence can damage the transition process. Due to the fact that money laundering is inextricably linked to the illegal activity that generated the money to be laundered, it will continue to allow criminal activity to be perpetuated.

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