

## Synthesis of the PhD thesis “Anti-money laundering and counter terrorism financing management”

**Camelia POPA, PhD**

ASE Bucharest

6, Romana Sq, Sector 1, 010374, Bucharest, Romania

[camelita4ever@yahoo.com](mailto:camelita4ever@yahoo.com)

**Key words:** Money laundering, stages of money laundering phenomenon, terrorism financing, underground economy, tax avoidance, organised criminality, drug trafficking, shell corporations, Financial Action Task Force on Money Laundering, alternative remittance systems, regulatory entities and persons, know your customers, suspect transactions, the National Office for Prevention and Control of Money Laundering, fuzzy modelling, money launderers, offshore companies.

As a whole, this PhD thesis follows three research lines, namely:

- the conceptual line - concerns the definition of the money laundering and terrorism financing phenomenon, the processes, mechanisms, stages and instruments of the laundering of illegally obtained fund;
- the estimative line aimed at measuring the size of money laundering phenomenon, the economic, social and security effects and consequences;
- the line of an awareness of the need to prevent and fight against the effects arising from money laundering processes, the national and international efforts taken until present nation- and worldwide and the future measures required to diminish the consequences of this scourge.

Throughout the six chapters of the PhD thesis, characterized by a combination between positivism and normativism, our main aim was to analyze a number of controversial matters, theoretical as well as practical, regarding the anti-money laundering and counter terrorism financing management. We have tackled the issue of models used to estimate the size of money laundering and terrorism financing phenomenon, the investigating methods and techniques related to such offences, as well as the institutional and operational management applying to such situations, which impose international cooperation for preventing and fighting against the phenomena concerned.

As the field approached is relatively new in Romania as concerns the investigating activities aimed at preventing and fighting against money laundering, *the main focus* of our research is the phenomena of money laundering and terrorism financing with an emphasis on the operational, institutional and organisational management of the activities of prevention and fight against said phenomena, both at a national and international level.

The money laundering issue is complicated, be it analysed from the jurists' perspective or from the economists' one. This is why the prevention and fight against the money laundering and terrorism financing have represented and represent a topical issue within the discussions among the national institutions, as well as the international forums,

entailing thus a special interests which materializes in the theoretical approaches.

The **first chapter** underlines and analyses the concepts of money laundering and terrorism financing and approaches the money laundering as a process aimed at reinserting the illicit financial funds in the official economic and financial circuit. It also identifies the links existing between money laundering and terrorism financing and analyses the functional links between the terrorism and the organized criminality.

In order to prove the convergence between the money laundering and the terrorism financing, it is required to present the economic and financial infrastructure specific to money laundering: stages, methods, techniques and instruments, as well as to assess the importance of money laundering on terrorism financing, the direct operational support and the organizational requirements.

The role of offshore destinations and banking havens on facilitating money laundering and terrorism financing was not overlooked either.

Likewise, we propose a new definition of the concept of money laundering from the perspective of the comfort it ensures to the launderers.

The **second chapter** focuses on identifying the deficiencies of the methods of dynamic simulation of illicit financial flows and on providing arguments to support the uselessness of the official statistics in this field.

We identify the quantitative links existing between the illicit income and the money laundering by analyzing the drivers and the dynamics of the illicit financial flows. The end of the chapter is reserved to the strategies used to assess the risks related to money laundering and terrorism financing. The links existing between money laundering and the specific offences of the organized criminality, such as drug trafficking, corruption, tax avoidance, terrorism, etc. are also outlined.

The **third chapter** is aimed at analyzing the money laundering operations and the operational management of the prevention and combating techniques, emphasizing on money laundering typologies.

Approaches and opinions on the management of money laundering prevention and fight against are considered through the analysis of suspect transactions and the assessment of threats and weaknesses.

By the **fourth chapter** we seek to promote the international legislative framework governing the prevention and fight against money laundering and terrorism financing, which is studied in parallel with the internal regulations, with a view to emphasizing the differences and identifying the possible solutions that may be implemented in Romania.

We have analyzed the extent to which the international regulations are implemented in our country's legislation; whether they may be improved, as well as other measures that need to be implemented in order to combat money laundering. We have analyzed if the autonomous offence of money laundering in reference to a predicate offence should be implemented in the Romanian legislation and presented organizational structures and duties and powers of internal and international organizations and bodies aimed at preventing and fighting against the organized crime, money laundering and terrorism financing phenomenon.

We brought arguments supporting the need of an internal and international consistent legal system which may provide efficient measures to prevent and fight against the phenomenon of money laundering and terrorism financing.

The **fifth chapter** contains a critical analysis of the National strategy for the prevention and fight against the money laundering, as well as of the national investigating system aimed at preventing and fighting against money laundering.

We propose a model based on the fuzzy logic intended to measure the size of the illegal financial flows (and implicitly of money laundering), which generates a value corresponding to the scope of this phenomenon as related to the size of the Romanian

underground economy.

The idea of this model came after outlining the issue of weaknesses with direct impact on the financial discipline, and implicitly of the tax avoidance, which is in the Romanian financial system the main source of illicit income and also one of the most common, simplest and most effective schemes of money laundering.

The **sixth chapter** contains a summary of the personal conclusions, opinions and proposals set out in the work and seeks to outline the methods whereby the management of prevention and fight against money laundering and terrorism financing may be revived in Romania.

**As a documentary basis** for drafting this PhD thesis, statistics and studies were examined, as follows from the quoted bibliography comprising 157 references.

**In terms of methodology**, this thesis was drawn up mainly based on traditional research methods, relying on analysis, summary, induction and deduction, analogy and comparative analysis. Where permitted by the nature of the topics approached, mathematic and statistical methods, fuzzy modeling, as well as the graphic representation of the events and processes under investigation were used.

The period of documentation for this work ended roughly in 2011.

**The innovative nature** of the PhD thesis is given by:

1) Definition of the money laundering concept from the perspective of the comfort it ensures to the launderers.

The money laundering offence seems thus to be a set of activities, methods and techniques, whereby the goods obtained as a result of one or several predicate offences are subject to a dissimulation process in order to acquire a certain colour of law and to be more easily put into circulation so as to lose all track of their origin.

In our view, money laundering is the process whereby an offender seeks to hide or dissimulate the illegal origin of the unlawful profits and/or goods in order to make sure that he may benefit from the comfort ensured by the consumption or investment thereof in the legal economy.<sup>5</sup>

2) Personal considerations on the economic and financial infrastructure of the money laundering: stages, methods, techniques and instruments.

We experience an increase in the professionalization degree of money laundering operations as a result of the use of bankers, financial experts, lawyers, notaries, etc., leading thus to a transfer of this activity from the persons who gain illegal profits (smugglers, forgers, traffickers, etc.) to persons who are acquainted with the financial and banking mechanisms and may assure the success of these operations.

The money laundering process does not go compulsorily through all the three stages settled; the layering stage is removed in some cases, compressing thus the process in order to reduce the costs and increase the laundering speed.

After having analysed several operational aspects of the money laundering process, we came to the opinion that in terms of the stages crossed the reporting entities are not subject to the same stages. For instance, the banks, non-banking financial institutions and casinos are used for placement and layering purposes, while the notaries public, real estate agents, etc. are used for integrating the unlawfully obtained goods in the official economy.

3) Analysis of the gaps existing in the integrated system of strategic information management.

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<sup>5</sup> Personal definition

It is extremely difficult to estimate the size of the financial means of the organised crime (the volume of money laundering) mainly due to the lack of adequate data, both nationally and internationally. Why are the official statistics so useless? One of the causes of this situation is the states' lack of unity and transparency, for not having implemented any integrated system of strategic information management. A significant improvement of the procedures used for collecting and supplying the adequate data regarding the effects of the suspected and/or proven offences, as well as the frequency of occurrence of the money laundering offence in different criminal environments is required.

4) The improvement of the operational management of the techniques aimed at preventing and fighting against money laundering and terrorism financing may concern the following:

- The government authority must be of a senior level (by using the adequate financial and tax mechanisms, such as costs and risks of taxing penalties) in order to sustain the decrease of criminality and to encourage the reporting of unusual transfers.
- A proper mechanism for the capital and financial markets should be created in order to implement a complex supervision.
- Control of corruption in the public sector.
- Extension of the financial and audit control to the economic activities as well in order to become transparent and prevent the tax avoidance.
- Creation of a force of "intervention" in the tax field in order to fight against the money laundering (Tax Interpol).

5) The improvement of the institutional and organisational management of money laundering prevention and counter terrorism financing at a national and international level

We deem that the organisational structure of ONPCSB is not efficient from an operational point of view or as regards the dissemination of the relevant financial information. This is also due to the fact that the Office Plenum, the decision-making body, has a heterogeneous composition and may not make at all times operative decisions to keep pace with the course and dynamics of the money laundering phenomenon from Romania.

Likewise, the claims received by ONPCSB from the reporting entities, as well as the impact and financial analyses drawn up by the employees of this institution are submitted to the competent courts of law very late, long after the suspected actions of money laundering are committed. This makes it practically impossible to identify the persons involved, to prove the criminal activities, and implicitly, to correspondingly punish the launderers.

We deem that it would be advisable to set up within ONPCSB an operative department, gathering professionals from the Prosecutor's Office, Police, Intelligence Services, etc. Only thus it will be possible to obtain concrete and proven results in due time, since the time is of essence in identifying the offenders involved in operations of money laundering and terrorism financing, and the success of damage recovery would be tremendous.

As we showed throughout the work, the money laundering operations are anonymous, fast and highly complex. That is why we consider that the preliminary administrative procedure must compulsorily take place as quickly as possible as related to the time when the money laundering offence is committed. Moreover, we deem that in certain situations the habilitated bodies should be notified immediately upon the receipt of the reports regarding suspected money laundering transactions.

In our opinion, the excess of secrecy displayed by the units specialising in information collection and analysis should be eliminated. This could guarantee the operative use of such information.

6) Identification of the ways whereby the management of prevention and fight against money laundering and terrorism financing could be revived in Romania

Assuming that the underground economy is the source of money laundering processes, we sought to find a method for measuring the size of money laundering starting from the illegal financial flows in Romania. Therefore, we placed the proposed estimation model among the ones aiming at the underground economy and estimated the money laundering contribution to the sizing thereof.

There is a wide range of offences that entail illicit profits, but according to public information, in Romania the tax avoidance is the most important source of illicit income in the economic money laundering cycle.

We have proposed to design a model based on the fuzzy logic which enables the “quantification” of money laundering (illicit financial flows). We initiated this approach assuming that the tax avoidance, as a criminal predicate for money laundering, is the main source of manifestation of this phenomenon in Romania. Likewise, we deem that a positive association exists between the causal variables of the tax avoidance and the size of money laundering. According to the results obtained by us, amounts ranging from 5.49% of GDP (RON 28,257 million in 2008) and 7.76% of GDP (RON 40,550 million in 2010) are laundered in Romania. The results are comparable to the data provided by the National Institute of Statistics.

Of course it is impossible to determine if the solution provided is correct and consistent with the reality, as due to its nature, the money laundering features a highly uncertain evolution. Despite this, we deem that the fuzzy technique herein described may be an acceptable alternative to the analyses based on regression equations.