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## **Ethics and internal audit: whistleblowing issues**

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## ETHICS AND INTERNAL AUDIT: WHISTLEBLOWING ISSUES

**Abstract:** It is undisputed that the companies' performances are now more than ever, in the concerns caused by global competition and financial crisis. In this context, one of the interveners in the direction of performance is having an ethical and responsible behavior regarding the public. An ethical behavior is related first of all to the idea of morality, above respecting the law. „Ethics aims to the heart of the corporate's reputation and in the end that is all you have if you hope to be successful and prosperous in the business world (Harold Tinkler-director of ethics department of Deloitte & Touche). Developing a system of ethical values within an organization depends not only on the framework provided by the law, but also by creating a participatory framework in order to eliminate waste, or other forms of fraud. *Whistleblowing* („who blows the whistle”) which can be translated by „giving signals” means that employees can be a part of the internal structures of companies with duties of discovering non-ethical practices. Whistleblowing policy is the result of implementation by U.S. firms which are present in other states, of the Sarbanes Oxley Act in the U.S. What these companies do not realize is that the implementation of whistleblowing schemes in Romania can be interpreted as a violation of the rights of data subjects to personal data protection.

Being an anglo-saxon practice type, the question is to what extent the European type company will be able to fald with and also how it can be controlled? It is believed that controlling the activity of *whistleblowing* can be performed by a specialized team of internal audit department. So, internal auditors should realise also missions regarding the research of those tort facts reported by employees. *Whistleblowing* is designed as a just and effective mean in order to improve the individual and collective behavior of a company.

**Keywords:** company, ethics, internal audit, whistleblowing

### Introduction

The concept of „SOX” or Sarbanes Oxley Act is a concept becoming increasingly common in Romania, particularly because of the multinationals firms. SOX or SARBOX is a federal law (the name comes from the name Senators Paul Sarbanes and Michael Oxley) who appeared in the United States of America (2002) following numerous financial scandals in some corporations such as Enron, Tyco International, WordCom, etc. These scandals have been caused by financial problems which led at strong fall stock of securities of these companies as well as resounding bankruptcy. There is a complex of factors that led to creating the conditions for developing this legislation, but the astonishing number of corporate frauds was considered the catalyst factor.

The purpose of this legislation was to create height standards for public companies from U.S.A., including non-American companies, but which it lists securities issued (shares and bonds) at the U.S. capital market, for the management and for public departements of audit and accounting.

SOX legislation has 11 chapters dealing with institutions, rules and procedures that the companies are obliged to respect and is assessed that it had a beneficial effect (despite the significant costs related to implementation) to restore public confidence in capital market, strengthen financial control activity of the corporate level and, in general, the strengthening of control sistem and internal audit at companies level.

The frauds have been and are an expensive business! What they had in common these frauds relates to the fact that the management took the decision wrong, illegal or immoral in order to hide mistakes or to benefit in personal name these companies.

Among the mechanisms imposed by SOX to firms from U.S.A. or to foreign companies listed in the U.S. and also to their subsidiaries abroad, it include also the establishment of a system allowing employees to report frauds and financial abuse accounts. On this recital the whistleblowing set up by Sarbanes Oxley Act, discuss about the ethics of legitimacy, ways of

implementing and the internal control that may be entrusted internal audit department of the company.

## Research Method

Approach in achieving this work started from studying problems related to internal audit missions which I have met as a teacher who tried to bring more value for the profession of accounting and auditing and to ask questions but also to provide solutions to students who want to learn theoretical and practical knowledge. I must also remember the work and experiences achieved in about 15 years in an office at Big Four and the ABA Audit SRL Timisoara, in the external and internal audit.

The work is intended as a chapter of a larger research project on the internal auditing. The research is based on analysis of work and exposures, and on the analysis of regulations and the trends at international and national levels.

I appreciate that after the following article will appear many other themes which will develop ideas presented or complementary themes. These results may contribute to improvements of the internal audit in Romania.

### 1. The term and definition of *whistleblowing*

The simplest definition: whistleblowing means the denunciation of fraud or abuse by a company employee. The issue of denunciation made by an employee is primarily an ethical issue, because not always legal and financial control systems, implemented by companies, are able to complain the moral impact of the decisions and behavior that managers/employees make/ have in relation to the perspective of corporate social responsibility (CSR).

Whistleblowing may be internal or external. We discuss of the internal whistleblowing when an employee denunciate irregularities observed at a higher employee with the intention to remedy the situation through internal measures; instead the whistleblowing is categorized being external when the internal whistleblowing was not successful or when the employee knows that only a public authority could resolve the deficiency (in this second case, the message of the employee who is "blow the whistle" may have, and usually it happens, a great impact on the environment in which the company operates with different implications).

As internal control tool, the whistleblowing has at least two aims:

- i) to eliminate possible internal irregularities, particularly those relating to discipline at work (this is related to the internal whistleblowing);
- ii) building an image of responsible company, ready to assume the errors on the one hand, and especially, the idea of the transmission of transparency and of informations unethical (inconsistent with the ethical code of the company) and immoral.

As new tool used by U.S.A. companies, the whistleblowing is discussed in Western Europe and also in Romania. There are a number of questions related to the need to attract attention to conduct fraudulent companies versus characterization of a denunciator behavior in the company.

#### **Case study: Sheryl Hall**

In 2000, Sheryl Hall, former coordinator of the White House computer operations, publicly accused presidential administration that these was engaged in an coverage action of information via email. Specifically, she accused the White House that these has not responded, intentionally, to warnings IT team when she was warned that the system with a single server to store all e-mails sent and received in White House not work as they should, and some emails were lost. The period in which these emails were not stored coincides with major scandals in which the White House was involved, such as with Monica Lewinsky, with the Vice President Gore (involved in a controversial campaign fundraising), the one at the alleged sale of places in the Department of Commerce in exchange for political donations and the one that the White House was accused that she acquired the FBI files. Furthermore, the non-storage of these e-mails overlap with the period in which Justice Department asked to the White House to provide all relevant documents in order to investigate the above cases.

In 2000, Sheryl Hall and other ex-employees of the same department said they were threatened with imprisonment and inability to be able to engage in Washington if they will disclosing the deficiencies found.

## 2. Whistleblowing nature and his ethical legitimacy

It may be noted that the whistleblowing is actually a confidential reporting at the job on facts inconsistent with the negative effect on the company or on others with the scope of applicability:

- illegal civil activities / penal,
- ethical misconduct / disciplinary,
- violating of health and safety rules,
- maladministration,
- immoral acts<sup>1</sup>.

*The whistleblower* is protected by the anonymity, if they manifest this desire, anonymity both to the one which is „denounced” but also to the one who reported the abuse (eg, through free calls to certain phone numbers). But even if the whistleblowing policy was created for that the employee to be able to report an abuse or a large-scale irregularities, she may be sometimes poorly understood and applied (eg an employee can "denunciate" a colleague who sits on the messenger or he is "buying time" in the lunch break, even if those things do not affect him directly). Motivation to practice whistleblowing can move from a moral practice, as a personal one, of release of frustrations<sup>2</sup>. A *whistleblower* has to spy and when the situation gets worse, have to sustain due to the end and provide public information the Company deems confidential. Is this ethical?

The word "ethics" is derived from the Greek "ethos" that means character, custom. „While the morality concerns the concepts of good and evil in terms of human behavior, ethics concerns how and the motivation for who the people act in a certain way.”<sup>3</sup> Ethics is definitely the measure of morality. „Morality means, most often, the common heritage of human values applicable to human action; instead, the concept of ethics is often used to describe a smaller field of actions related to human life... cu privire la termenul deontologie, care provine din grecescul *deona*, „datorii”, adică ceea ce este datorat sau pretins, regarding the term ethics, which comes from the Greek Deon, debt, what is due or alleged, it means what should be done in a certain social situation, in particular, all obligations relating to the exercise of profession”<sup>4</sup>. The starting point for any ethical reflection is human freedom and ability to anticipate the consequences of his actions. Ethics refers to concepts such as: autoconștiință, independent will, imagination and awareness of good and evil. Ethics is, above all, a matter of personal choice and gives meaning to any behavior. Ethics is an expression of a need or a search of meaning (Ricoeur, 1990) defined as the „desire to have a fulfilling life, on which is based the self-esteem himself, with and for others in fair institutions”, involving three components of the ethics issues:

- subjective component, corresponding to a better life for himself;
- impersonal component, on the report on the others;
- social component, relating to institutions.

<sup>1</sup> Anca Grigorescu - „Whistleblowing policy limitele implementării în România” [http://www.moneyexpress.ro/pictures/File/Anca%20Grigorescu\\_bpv%20Grigorescu\\_Whistleblowing\\_R.pt](http://www.moneyexpress.ro/pictures/File/Anca%20Grigorescu_bpv%20Grigorescu_Whistleblowing_R.pt)

<sup>2</sup> Ines Prodan - „Despre whistleblowing în organizații” <http://basicmarketing.ro/studii/despre-whistleblowing-in-organizatii/>

<sup>3</sup> Camelia Liliana Dobroțeanu, Laurențiu Dobroțeanu – „Audit intern”, pag. 75, Editura InfoMega, București, 2007

<sup>4</sup> Monique Canto-Sperber, Ruwen Ogien – „La philosophie morale”, Que Sais-Je, PUF, Paris, 2004

There are a number of papers on ethical issues of whistleblowing-ului. Were separated, two approaches, radically opposed: a „soft” version and a „hard” one<sup>5</sup>:

i) the „soft” version talks about a „warning ethics” as a tool, who allow to employees to participate in the prevention of risks from the company and to promote its values. For a French working group ([www.place-publique.fr](http://www.place-publique.fr)) created by the circle of business ethics, if established in connection with employees or their representatives and is designed as a new channel of freedom of expression and not as a mechanism mutual control of the employees, then the whistleblowing can be a fair and effective tool for improving individual and collective behaviors of a company. Ethics should be a new channel of freedom of expression available to employees and would thus constitute an additional tool to enable them to pursue rights that they already have. Always in soft version, the whistleblowing is part of the theoretical trend (curentul teoretic) of virtue. Thus, the morality is part of individual life and can be analyzed after Aristotle, for whom moral principles can not be fully explained by rational manner and assessed in a abstract way, because the specific practices are those who give them a sense and record them in social life; that) the power / moral quality (Phronesis) is the quality (insusirea) who decides applicability to particular cases; (that) the moral judgments are not products of the theoretical reason ... also the use of technical language depends on some form of joint life and of community practices. In the community are defined the concepts of our ethical experience”.

ii) the „hard” version of the *whistleblowing* indicate this concept as an instrument of control that makes in every employee an instrument of authority in the management hand of the company.

#### **Case study: Parmalat**

The founder of Parmalat, Calisto Tanzi has admitted that Parmalat, began to falsify their financial statements since the early 80s, but the fragile business went bankrupt in 2003, when it was revealed that a company bank account in worth 3.9 billion euros, at the Bank of America, the Cayman Islands, it doesn't exist. A few months after the collapse of Parmalat, the founder and 12 other employees and financial advisers were jailed, but currently none is no longer in custody. Subsequently, an independent audit firm found that Parmalat used to falsify accounts in the bank for over a decade, accumulating corporate debt being of 14.3 billion euros, eight times more that the officials of Parmalat had declared.

Matteo Arpe, former chief executive of the bank Capitalia in Rome, which is considered one of the most outstanding personalities of Italian business environment, is accused not took steps to prevent fraud committed by Parmalat managers. He said he had no knowledge about the real situation of the Italian corporation and that all he did was in good faith.

On the other hand, Mr. Calisto Tanzi had a different view, stating that the creditor banks were aware of the precarious financial situation of the company and that, moreover, they forced him to make acquisitions to overcharge to have succes further to finance. Dairy company was forced to buy an company obscure bottled water to gain access to bank loans for the benefit of tourism agency of Tanzy's family.

Does what would have happened if the *whistleblowing* would have existed and if he would have functioned?

### **3. Internal audit and the *whistleblowing***

Establishment's whistleblowing by Sarbanes-Oxley Act calls into question not only ethical issues but also issues related to applicability, aspects that may be entrusted to internal audit department of company.

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<sup>5</sup> Christian Parat dit Hauret – „Etique et auditt interne: la problematique du *whistleblowing*”, în *Audit intern: enjeux et pratique a l'international*, sous la direction d'Elisabeth Bertin, Editions d'Organisations, pag. 188, Paris, 2007

As defined by The Institute of Internal Auditors (2004), internal audit is „an independent and objective assurance activity and advice, aiming to create added value and improve the organization's operations. It helps organization to achieve its objectives through a systematic and methodical approach, on assessing and improving the effectiveness of risk management, control and governance.” *International Federation of Accountants* (2008) defines the internal audit as „an activity assessment, established in a entity as a service entity. The functions include, inter alia, examining, evaluating and monitoring of the adequacy and effectiveness of internal control”.

Internal auditors are in that position which provides crucial support in the transition process of the company from what was, at the implementation of a viable control model, efficient and effective. Companies that give a higher importance and value at international control, have also the same trend in terms of internal audit. Like any other change in the life of a company, the implementation of a tool / model for internal control, outside the way he was done until recently (for many companies, internal control allow only objectives financial reporting), represents a real challenge for any company<sup>6</sup>.

Sensitive issue of internal control implemented in companies and also, the reasonable assurance, on wich management should have on its functionality have been the focus of various professional bodies and specialized institutions. Results of these concerns have resulted in offering practical solutions, in the form of internal control models. The most common are:

- COSO model - used in the private sector in Europe, and increasingly more in U.S.A. companies, particularly in those involved in international trade;
- CoCo model - used in public and private sectors in Canada.

It is expected that the model (the report) COSO is a very important step in the evolution of the methods to measure the effectiveness of internal controls, linked not only by the financial reporting, but also by company's transactions in general. According to the COSO model, internal control is a process implemented by the Board, management and all staff of a company, designed to provide reasonable assurance regarding the organization's objectives, having regard to:

- the efficiency and effectiveness of operations (*operation*);
- *reality of financial reports (financial reporting)*;
- *compliance with applicable laws and regulations (compliance)*.

Consequently, internal audit, the guarantor of security assets and transactions, and gradually expanded the scope to the guarantee of consistent application, effectiveness and efficiency of the control of the implementation of strategy and company policies in order to achieve the planned objectives, including implementation of codes of ethical conduct

**Case study: Trelleborg (extract of the code of ethical conduct) [www.trelleborg.com](http://www.trelleborg.com)**

***Principles of integrity***

We have a system accessible to all employees, in which anyone can express his concerns or suspicions of integrity.

Employees can apply the *policy for providing informations* if they have reason to suspect violations of laws, regulations or Code of ethical conduct. Every employee of the group is entitled-without fear of repercussions from nobody-to inform the directors appointed in this aim of any criminal activity or activity contrary to our principles.

Directors appointed for this purpose are Senior Vice President of the Human Resources department and Senior Vice President of the Legal Department. To see „Trelleborg whistleblower policy”.

Contacts:

Senior Vice President of the Human Resources department

tel: +4641067013

<sup>6</sup> Cristina Boța-Avram – „Auditul intern al societăților comerciale”, pag. 203, Editura Risoprint, Cluj Napoca, 2009

Senior Vice President of the Legal department,  
tel: +4641067041

Address:  
„Trelleborg whistleblower policy”  
Box 153, SE-23122, Trelleborg, Suedia

#### *The 7 principles of gold*

„The activity of Trelleborg group will be conducted on the following principles:

1. We respect individual rights and we have an honest conduct in business, marketing and advertising. We are determined to improve the safety and quality products and our processes.
2. We respect the law, we manage our business with integrity and honesty and we assume responsibility for our actions.
3. We make every effort to reduce the negative impact of our activity on environment and human health.
4. We are not engaged in illegal transactions and we not act in the context of illegal activity.
5. We don't tolerate offering, requesting or accepting bribes.
6. We all have *the right to notify directors appointed for that purpose if we see violations of law or of the Code of ethical conduct.*
7. Trelleborg listen and take into account the views of its partners, with the purpose of ensuring sustained growth of the company.

#### **4. The whistleblowing in Romania**

In Romania Whistleblowing policy has already been implemented in areas such as telecommunications, financial and banking services, energy, food and retail industry.

Although that the mioritic pioneers are represented by the U.S. affiliates companies, it seems that already most multinationals committed to introducing this policy in a form more or less complicated. Although wistleblowing is considered to be a Big Brother with a modern and democratic style (checking e-mails, video and audio registrations in order to detect and remove adverse effects on companies or on its associates), it is a tool in building an environment of adequate control.

The main reason for introducing whistleblowing policy is the increased competition and increasing cases of theft / embezzlement, but not least a better supervision of staff and therefore better management of costs (telephony, fuel, etc.). Also, the need for an internal uniform control in all group companies on employee activity, the need for stricter procedures in companies with complex hierarchies and a large number of employees and legal obligation of making certain reports, are considered reasons for introducing policy of *whistleblowing*. Among reporting obligations imposed by the companies are also those relating to violations of the law (acts of corruption, money laundering, frauds), favoritism in making business decisions.

Companies that have implemented the whistleblowing have felt a deterioration in the workplace atmosphere and also an increase maintenance costs and pay of the speciality personnel. On the other hand it was felt an increase in productivity and decrease costs per every employee as a result of diminishing values of phone bills and of reducing working time lost by the employee.

It can be seen that the Romanian tradition begin gradually to place a global culture, corporate type, in terms of work and job. More and more employees agree that the organization is one that requires rules, and the employee must obey them. Financial independence that characterizes young people and humans opened to new makes that these categories be most



open to such approaches from companies. They consider this policy as being a natural one, while an employee with greater seniority in a job may consider that the policy is abusive. Differences in mentality in the approach of *whistleblowing* may be also found in object activity of the companies that introduce such policies. One is the situation in which whistleblowing is implemented at a company in the steel industry, where the average age is high and there is an other mentality and response to new and it's an other situation in an information technology company.

Romanian society will evolve whether the whistleblowing will be integrated or not in the local economic culture, but it is noteworthy that new trends are making steps in our country too.

Although Romania has specific regulations for whistleblowing, only to authorities and public institutions as whistleblowers integrity, for companies wishing to implement it must taken into account the legal provisions relating to<sup>7</sup>:

- a) work right - employer obligations:
  - respect for the dignity of the employees at work,
  - informing and consulting employees,
  - ensuring confidentiality of personal data,
  - consultation with union / employee representatives in decisions that affect them.
- b) criminal law - the violation by the employer of the right to privacy:
  - checking of the correspondence (e-mails of the company are not confidential?),
  - recording / storage / telephone tapping,
  - inspecting luggage.
- c) protection of personal data - obligations of the employer
  - confidentiality and security of processing,
  - the right to access and intervention to the informations,
  - collection for specified, explicit and legitimate aims,
  - adequacy and pertinent of the gatherings,
  - accuracy and updating of data,
  - the storage on limited time.

It is difficult to assess the timeframe in which a visible impact of whistleblowing in Romanian companies may be appreciated as being true instruments of internal control as long as internal audit himself is hitting the road.

**Case study: Opinion regarding the implementation of the whistleblowing**  
([www.standard.ro](http://www.standard.ro))

„The implementation of whistleblowing schemes in Romania can be interpreted also as a violation of the rights of persons subject to protection of personal data. Thus, the denouncer, anonymously (that is the essence of the *whistleblowing* scheme) denounces a work colleague who did who knows what, giving his personal information without his consent. Although I do not expect that the Data Protection Authority to respond, the issue was at least and largely debated in the European Union by the Article 29 Working Party and concluded that a whistleblowing anonymous scheme offending above. So, I would not rush to embrace this policy, which can bring shortcomings to the said company”.

As I said, if for companies we are at the beginning, in public institutions and authorities we can see the first steps in introducing policies of whistleblowing linked to attracting and using Community Phare funds. The procedure applies to the entire PHARE program - subprograms / projects and grant schemes throughout the period when they are implemented, plus 5 years after implementation.

**Case study: „Whistleblowing” procedure** ([www.fsenordest.ro](http://www.fsenordest.ro))

<sup>7</sup> Anca Grigorescu - „Whistleblowing policy limitele implementării în România”  
[http://www.moneyexpress.ro/pictures/File/Anca%20Grigorescu\\_bpv%20Grigorescu\\_Whistleblowing\\_R.pt](http://www.moneyexpress.ro/pictures/File/Anca%20Grigorescu_bpv%20Grigorescu_Whistleblowing_R.pt)

*Whistleblower* is the employee, former employee or any person in an organization, especially financial or governmental, who is reporting the maladministration made by persons or entities that have power and so-called powers to conduct corrective action. In general, the maladministration relates to breach a law, rule, regulation and / or a direct threat who concerne the public interest - fraud, corruption, violation of safety, of the security, health, are just some examples. If an employee suspects that an coordinator of the representative unit or the representant of payee grant etc.. is involved in irregularities and the irregularity is a fraud rather than a mistake, then he / she will report directly to the Rapporteur of irregularities of OHR (UIP) and Rapporteur of Irregularities of the Implementing Agency (the Management Authority) or to PAO – „whistleblowing procedure”.

Protection afforded to a whistleblower consists in: the confidentiality for the identity of *whistleblower*, prohibiting of retaliation, measures of damage, the right to change his residence, the guarantee against civil and criminal action, absolute privilege against libel procedures, allowing the disclosure of anonymous, protection in relation to media.

It is identify two types of whistleblower:

a) Employees of the Implementation Agency (Management Authority) / OIR (UIP) – *internal whistleblower*) employees of OIR (UIP) they report suspected case of fraud to the Rapporteur of Irregularities of OIR (UIP) or to SPO. Where no action has been taken, the person will report to the next level: Rapporteur of Irregularities of the Implementing Agency (the MA) / NF, PAO, and the NAO (at the e-mail, phone, alert box of irregularities). The exceptional situation when the employee may contact directly the National Fund (NAO) is conditioned by:

- when the employee thinks that the found irregularity is not correctly reported;
- when the employee concludes that his recommendations for the settlement of found irregularities were not followed;
- when the employee believes that the financial control system has weaknesses that can harm the financial interest of the European Commission;

The employee concludes that that leadership is not able or willing to follow his recommendations and management staff always show their inability or refusal to do their job (cumulative condition). Employees who founded or suspected the existence of irregularities will transfer all documentation relating to irregularities to the person receiving the alert / report irregularities (reporters of irregularities in the OIR (UIP), reporters of irregularities in the Implementing Agency (the Management Authority), SPO or PAO).

b) Third part (beneficiaries, entrepreneurs, media and citizens) - external whistleblower. If it's a suspicion of fraud, the situation is reported as quickly as possible, in writing or anonymously, to protect the safety of those who reported these cases. If the whistleblower discovers irregularities, they may report officialy using a formal letter or anonymously in writing, by telephone, email or by allarm box/ irregularities.

## **5. The management of situations created by whistleblowing by internal auditors**

Acceptance of whistleblowing policy in companies requires the existence of the other end of the line of „112”, respectively what will make this internal control to be reliable and effective. In other words, who ensure a successful management system of alerts without „collateral damage” on internal and external environment of the company?

It is estimated that the activity of control established by the whistleblowing policy to be carried out by a specialist team of internal audit department of the company<sup>8</sup>. It is a team with special responsibility who must treat the alerts with care, diligence and candor, particularly the anonymous ones.

Internal auditors could assure a clear and complete information through the reports addressed to the board of directors or audit committee, on how to use the device of control, avoiding any abuse by establishing penalties (disciplinary, material, civil or criminal). The

<sup>8</sup> Christian Parat dit Hauret – „Etique et auditt interne: la problematique du *whistleblowing*”, în *Audit intern: enjeux et pratique a l'international*, sous la direction d'Elisabeth Bertin, Editions d'Organisations, pag. 194, Paris, 2007

device of control should include, inter alia, procedures relating to the security and confidentiality of the person's identity who introducing an alert in a scheme, while are founded consistent means of accountability of *whistleblower*. This is because only a prudent person is able to assess accurately and make distinction between what is right and what is bad. It is known that young people are less predisposed to assume the results of their actions relative to those with more experience who are considered more cautious and placed in the field of responsibilities which they will assume.

Procedures they will implement internal auditors in the management of policy of whistleblowing will be formalized in a code of ethics aimed at encouraging the professional ideal behavior, realist and applicable.

Mission Internal Auditors related the management of whistleblowing is a complementary requirement of the external auditor under the ISA 240 „The Responsibility of the auditor to Consider Fraud in an Audit of Financial Statements”, of disclosing tort facts detected in its mission.

In Romania, the internal auditors have a number of legal obligations not only on financial accounting issues, but legal and related to the organization and operation of company for establishing a proper management, such as:

- specific obligations of reporting to the National Office for Prevention of Money Laundering<sup>9</sup>;
- to inform board members of the administration of irregularities and violations of laws and the legal provisions found, and most important cases will be bring to the attention of general meeting<sup>10</sup>;
- To consider in making its report to the management board / supervisory board, the acts claimed by shareholders; if the complaint is made by shareholders representing, individually or together, at least 5% of social capital or a share of small, if the articles of association requires so, internal auditors are forced to verify the claimed facts;
- participate, based on written convocation made by the Administration Board at his meetings, without voting rights.

The success of a deontological code lies in adopting a professional and moral attitude well above those required by a particular law.

**Case study: The offense of false intellectual of art 43 of Law no. 82/1991, the Accounting Act**

„Making intentionally of incorrect entries and the omission of accounting records, with the consequence to distort income, expenditures, financial results and assets and liabilities who is reflected in the balance sheet, constitutes the offense of false intellectual and she is punished accordingly to the law.”

Who is the *whistleblower* in such situations? What will be the reaction of the internal auditor to denouncements who refer on the failure of provisions for risks and charges, the existence of accounting manipulations, production of operations of *window dressing*, recognition of unreal profits etc..?

## Conclusions

If the whistleblowing is considered as a fair and effective tool for improving individual and collective behavior (see the full part of the glass), the alert will be directed towards protecting the company and creating a spirit of self-regulating, and internal auditors acquire a special mission. This will be possible if we have a formalization of a code of good practice

<sup>9</sup>Article 8 of Law no. 656/2002 for the prevention and punishment of money laundering and for establish measures to prevent and combat terrorism acts

<sup>10</sup> Art. 162, Law no. 31/1990, company law

in conjunction with an effective dissemination of the principles and of procedures contained to employees to comply, and by designing a functional system of penalties in case of violation of these principles and procedures.

When *whistleblowing* will be established, it must be the subject to prior debate between involved and interested parties with an adequate report on the conditions of realization of the right of denouncement and stating the ethical framework in which this will be made.

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