

# ECONOMIC AND FINANCIAL CRIME, A REALITY OF SOCIAL LIFE

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## **Abstract:**

*With the social, technological and informational evolution, we find that the phenomenon of economic and financial crime has no national territorial limits, and the methods of committing economic crimes have become increasingly complex, more difficult to identify, investigate and prove. In the context of globalization, the development of technology, the intensification of information exchange and experience, measures and actions against economic crime have intensified. This material addresses a coherent presentation of economic and financial crime, in terms of causes and effects. The causal approaches from the perspective of behavioral variables related to culture, attitude, morality, religion and other behavioral determinants are an important value in solving the problems of economic and financial crime.*

*Key words: economic crime, economic criminal offences, ghost companies, judicial cooperation, corruption, prejudice.*

*JEL classification: K 42, K14.*

## **1. Introduction**

The fight against crime is such a vast and complex field that requires a management of combating economic and financial fraud at national and international level and is achieved through a fundamental political and legal framework, the Romanian Constitution, laws, Emergency Ordinances and other normative acts that are involved in this segment of the fight against crime at the level of the European Union, and not only. The legislation on combating economic and financial fraud in Romania is particularly complex and dynamic, trying to approach, predictably, the demands and requirements of the European Union.

The obvious trends of globalization in this beginning of the millennium, impel the development of an important field of human activity, that of business, a field that forms the object of study of business crime or of economic and financial fraud.

In this context, it becomes mandatory to adapt the means, procedures and techniques used by the bodies empowered in preventing and combating economic crime in the fight against this phenomenon.

Traditional criminal organizations have perfected by sharing markets and areas of influence and action, using all the advantages offered by globalization: the disappearance of internal borders, technology, commercial transactions, Internet payments, economic crisis, poverty, undeclared work, the weakening of the state power in controlling the crime, thus the economic and financial crime releases in the society a strong feeling of insecurity and distrust in the state authorities.

Economic crime specialists consider that the conditions for committing economic crimes lie in the differences of economic and social nature between members of society, as well as the differences between ethnic and religious groups. At the same

time, a factor favoring the commission of economic crimes is represented by the dense and unclear legislation, which leaves room for interpretations, as well as the existence of legislative gaps in the field.

The prevention and combating of the phenomenon of economic and financial crime necessarily requires the existence of specialized bodies in the field. Concerned about business crime, the European Parliament makes, in accordance with its resolution on organized crime, corruption and money laundering, several recommendations on actions and initiatives that need to be taken at Union level to reduce crime.<sup>1</sup>

## **2. Concept and evolution**

Concepts such as corruption and transnational organized crime are currently defined at international level, but there is no common definition of economic crime among all States.

In practice, the concept of economic crime includes facts such as theft, bribery, corruption, forgery, employee fraud, embezzlement, data distortion, industrial sabotage, electronic fraud, counterfeiting, data concealment, destruction or concealment of documents, money laundering, tax evasion, submission of rigged bids in public procurement procedures, offenses concerning accounting documents. States have sought to fill this gap by concluding bilateral and multilateral conventions that have laid the foundations for interstate cooperation in the fight against economic crime.<sup>2</sup>

The ways in which the facts of tax evasion are performed differ from case to case, and, currently, the main offences investigated by the criminal investigation authorities are determined by the taxpayers' misapplication of article 6 and 9 of the Law 241/2005<sup>3</sup>,

In literature,<sup>4</sup> economic and financial crime can be defined by identifying the features common to the facts that are circumscribed to this notion:

- their commission in the context of economic, business and financial life, as well as the private or public one,
- by using means and methods that do not use force or mental violence - fraud, forgery, counterfeiting, corruption, exploitation of trade secrets and personal data,
- by persons who have knowledge in the economic, commercial or financial field,
- in order to accumulate profit, economic domination, and save economic entities in difficult situations.

Economic crime is an abuse of trust, speculating on the good faith of participants in economic life, credibility and apparent stability of the financial, commercial, banking, documents, etc.

The fight against crime is achieved through various social and legal and economic measures.

## **3. Operating methods in the economic and financial fraud system**

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<sup>1</sup> Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2013-0175+0+DOC+XML+V0//RO>

<sup>2</sup> Available at: [https://fr.wikibooks.org/wiki/Criminalit%C3%A9\\_%C3%A9conomique](https://fr.wikibooks.org/wiki/Criminalit%C3%A9_%C3%A9conomique)

<sup>3</sup> Uher, Marina. **Nagy, Cristina Mihaela** Accounting and legislative interpretations of tax evasion facts - between reality and legality. *Annals. Economic Science Series Vol XXI/2015*, p. 423

<sup>4</sup> Nicolas Queloz, Professor of Criminal Law and Criminology at the University of Friborg - Switzerland, available at: <http://uditis-forensic.blogspot.ro/2007/05/quest-ce-que-la-criminalit-conomique.html#!2007/05/quest-ce-que-la-criminalit-conomique.html>

measures.

**a. Methods of operating in committing offenses against companies with state capital<sup>5</sup>.** Intermediation of supply, production and sales activities of companies with majority state capital by limited liability companies ("suction cup" or "parasite"), at clearly disadvantageous prices compared to those practiced on the market.<sup>6</sup>

**b. Methods of operation in committing crimes to the detriment of private companies.** Conducting fraudulent commercial business by using "ghost" companies having their registered office at a non-existent address or not operating at the declared registered office (so-called "apartment" companies, "shell" companies or "in pocket" companies) is a way of operation used to deceive business partners or to commit tax fraud.<sup>7</sup>

For example, the perpetrators set up a "ghost" company in order to mislead the holders of compensation orders and capitalize on them in their personal interest. The company's headquarters were established in a rented apartment where the company never operated. After taking these measures, the perpetrators withdrew from a commercial company Renel compensation orders for which it issued 3 check sheets, without coverage, causing a damage of 4,7 billion lei. Also, the company administrator who purchased laminated products for which he issued a CEC sheet without coverage, had the registered office of the company in an apartment where there were no commercial activities and no employees, other manufacturers who received for sale important quantities of products then disappeared without paying the value, they had the company's headquarters in an apartment in Bucharest under "renovation" or in a building in the same city, demolished several years ago.<sup>8</sup>

**c. Operating methods for the use of uncovered or counterfeit payment instruments for the fraudulent purchase of goods.** A more refined mode of operation, used especially for companies with large stocks of products, involves the issuance of check sheets by the perpetrators as a guarantee, in "white", signed and stamped to be completed by the injured person and introduced for payment, in case of non-payment of the price until the term agreed by an accessory agreement to the sale-purchase contract. Thus, the perpetrator administrator of a commercial company, on the occasion of concluding and carrying out some commercial contracts with S.C. Petrobrazi S.A., misled and maintained this company, causing it to deliver petroleum products for which it guaranteed with check sheets without having the necessary supply or coverage, causing a damage of 11,9 billion lei.<sup>9</sup>

**d. Methods of operation by manipulating inaccurate data and information.** When launching public offers based on false information contained in financial statements, the announcement of fictitious amounts or false lists of persons who participated in the subscription in order to obtain additional payments or subscriptions.

**e. Operating methods used in the case of customs fraud.** The mode of

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<sup>5</sup> C. Voicu, Al. Boroi, F. Sandu, I. Molnar, Criminal business law, Rosetti Publishing House, Bucuresti, 1981.

<sup>6</sup> N. Moldoveanu, Economic-financial crime in commercial companies, Global Print Publishing House, Bucuresti, 1997.

<sup>7</sup> This mode of operation was also favored by the permissive legislation on foreign investments, which encouraged many perpetrators, foreign citizens, to set up a large number of limited liability companies in Romania.

<sup>8</sup> This mode of operation was also favored by the permissive legislation on foreign investments, which encouraged many perpetrators, foreign citizens, to set up in Romania a large number of limited liability companies with a share capital of only 100 USD.

<sup>9</sup> Amza, Tudor „Treaty on criminological theory and policy”, Lumina Lex Publishing House, Bucuresti, 2002.

operation frequently used to evade the payment of customs duties is the presentation of forged documents to the customs authority, for example cigarette imports and their sale by using a fictitious company, causing damage by the non-payment of customs duties.

**f. Operating methods used in the case of tax fraud.** In the field of tax evasion, economic operators, often benefiting from expert advice, have proved a prodigious inventive approach regarding tax evasion techniques and methods, aimed mainly on the sale of fuel, alcohol, cigarettes and coffee. The use of “ghost” companies is a tortious method that involves using a company, usually evidenced in the National Trade Registry, but without licenses for production, spaces and processing equipment, without activity and staff, and without carrying out accounting records. This company is interposed in the commercial chain from the supplier to the processor, to issue fictitious invoices for the delivery of alcoholic beverages bearing the non-genuine indication “excise duties have been paid by the manufacturer”, assuming the obligation to collect and pay them as a producer.

**g. Operating methods in committing fraud in the capital market.** The mode of operation frequently encountered on the international capital market is represented by the “boiler” activities, malversation consisting in the issuance by the perpetrators of shares for fictitious economic activities, followed by the manipulation of the share price through false transactions and their sale to victims.<sup>10</sup>

**h. Operating methods used in money laundering.** Money laundering is a fraudulent maneuver designed to disguise the origin and illicit nature of the profit of criminal activities and insert it into the flow of legitimate business. Regardless of the method of operation used, the money laundering process is done through transactions grouped in three stages: placement, which involves the transfer of illegal funds in order to remove them from the criminal source; stratification - which consists in the process of transferring funds between different accounts, separation of illicit funds from their source by creating successive "layers" of financial transactions, maneuvers designed to safeguards the pursuit and ensure anonymity; and integration which is achieved by moving the laundered funds through legal organizations and giving an appearance of legitimacy to criminal profit.

### Conclusions

The tax evasion phenomenon is as old as the one on taxes because taxpayers perceive tax as a "necessary evil" which they seek to avoid if they have the economic and social possibility, and mostly a favorable legislative framework.

Tax evasion phenomenon is widespread throughout the world, both in developed countries, but especially in developing or even poor countries, unfortunately Romania being included in this category<sup>11</sup>.

Certainly, the fight against crime, in general, and business crime, especially, is far from being complete, the subject of study is inexhaustible, and the methods of combating and investigating are constantly moving and improving.

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<sup>11</sup> Nagy, Cristina Mihaela Preventing and combating tax evasion in Romania. Annals. Economic Science Series Vol XXII/2016,

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