

# MONEY LAUNDERING TECHNIQUES COMMONLY USED. GENERAL APPROACHES

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## Abstract

*Upward trend of criminality in Romania is the result both of the impact of serious social and economic problems typical of the period of transition to a market economy, and misunderstanding of freedoms by a lot of people interested in reaping benefits by evasion, doubled by the tendency of subjects infringing the law to set up illegal contacts in other countries, particularly among immigrant groups and even within some structures of "organized crime". The provisional state that existed in all sectors of socio-political and economic life, including in respect of public order observance, facilitated expansion of criminal phenomenon, particularly in the area of violent crimes and against public and private property, inappropriate settlement of each and any social tension and conflict created precedents that led to escalating protest demonstrations and personal or collective justice. In the study hereby, we shall approach a number of money laundering techniques commonly used, limiting ourselves to their general overview, exclusively.*

**Keywords:** money laundering, illicit income, drug trafficking, organized crime, illegal migration

## Introduction

After December 1989, white-collar crime included in its complexity practically all economic and financial spheres, starting with the technical and material supply in the economy and ending with the process of privatization and settlement of banking and financial operations. Amid a sharp state of indiscipline and disorder of an attitude of defiance, of economic legislation on the management and protection of public assets, there have occurred acts of embezzlement, abuse and negligence, beneficial for money-making subjects, numerous assets being valued outside Romania on account of aggravated smuggling.

By setting up connections in the underworld, internationally and crossing the border, using false documents or passing through locations other than those subject to customs control, there has been exploited a broad range of products, from the ones standing for the population's basic needs up to national heritage assets and radioactive substances.

On account of shortcomings in the law, abuse, negligence and other unlawful acts that are committed in connection with natural resources and environmental protection, there have been introduced in the country toxic wastes and residues under cover of products required for domestic market, as well as other goods threatening population's health and the environment, such as: lacquers, paints, pesticides, herbicides, fungicides, etc.

Within the banking and financial institutions system, abuses and corruption acts relating to loans' granting, default of duties and taxes payment, etc. have seen considerable growth.

Additionally, there became particularly widespread acts of deceit, forgery and use of forgery on account of private companies issuing limited amount bad checks (no funds available in the account) for the payment of goods or services, bringing about considerable damage, sometimes difficult to imagine by a sound mind.

There is a continued increase in customs exchange frauds and in relation to the non-compliance of import and export operations, which are substantially detrimental to the State. The escalation of corruption in all spheres of economic life and committing these acts by public servants,

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often led to economic mechanisms' dysfunction and considerable damage brought to the public and private sector. In the economic and financial area there may be recorded a trend towards the restructuring and multiplication of organized crime, reflected in criminal acts, complex in terms of numbers of participants, methods used, damage caused, weight of economic agents and relevant institutions (state-owned companies, budgetary institutions, bank credit system, etc.).

#### **Money Laundering Basic Rules**

a) Anonymity - is one of the money laundering rules under which transaction with proceeds of crimes should be similar to other legal transactions in the field or place where they occur. Fundamentally, cash must not leave any trail leading to its source. In economies where cash is often used for purchases of smaller or greater value, its arrangement entails no risk for the offender. However, in most countries, almost all transactions involving large amounts of money are not performed cash, but by using other means of payment (checks, bills of exchange, credit cards), therefore spending or storing large amounts of cash raises suspicion.

For this reason, criminals have developed various techniques and methods of funneling cash into the financial system, namely:

- structuring, *i.e.* broking large amounts into smaller amounts and depositing them by several people in various bank accounts or using relevant amounts of money in order to purchase other payment instruments, such as bearer securities or money orders;

- cash smuggling, by simply illegally withdrawing outside the country a cash amount and placing it in another jurisdiction, generally with less rigorous rules, usually by courier or hiding the amount on cargo ships;

- interference of illegal funds with funds coming from a legitimate business with cash, amounts which are subsequently deposited together.<sup>1</sup>

b) Speed - Fast-movement of assets, so they can not be detected. Once the cash is pumped into the financial system, whether or not in the country of origin, the money launderer may use the benefits entailed by information technology progress (IT), modern methods of transferring money to put it quickly into service. Electronic bank transfers can move large amounts of money almost anywhere in the world in just a couple of minutes, without the owner having to go to the bank or involve bank employees.

c) Complexity. By broking its funds into several transactions and on account of the speed of these operations, the money launderer makes it difficult and sometimes impossible for investigators to follow the money track. Transfers from one account to multiple accounts in other countries and subsequent redirection from those countries create a multinational electronic complex circuit that makes it difficult to be tracked by research bodies.

d) Secrecy. Despite the fact that bank secrecy bears a legitimate purpose and a commercial justification, it can lead to the emergence of tax havens, which provide protection for criminals, worldwide operating approximately one million anonymous corporations, which impose strict financial secrecy and protect foreign investors from investigations and judicial inquiries<sup>2</sup>.

#### **Techniques to cover-up the illicit source of income**

- overvaluing a good's price under an invoice with a value greater than its true value or under a partially or totally false invoice;

- false commercial transactions inserted into a legal business by: cash transactions from one currency to another repeatedly and quickly, using multiple bank accounts, their recurrent opening and closing, bank account wire transfers from legal entities' accounts to individuals' account, external

<sup>1</sup> C. Voicu, *Spălarea banilor murdari (Dirty Money Laundering)*, Bucharest, SYLVI Publishing House, 1999, page 102.

<sup>2</sup> C. Voicu, *op. cit.*, page 109.

remittances of large amounts using multiple monetary instruments, bank or travel checks, credit operations, investments, fictional guarantees;

- method of returned loan. A portion of the funds illegally transferred abroad revert to the offender or the company it controls as a loan. This operation is then followed by returning the amount borrowed, plus interest and possibly late penalties agreed by the parties, leading to increasing amounts, thus entering the legal circuit;

- insurance policies, on account of frequent changes of beneficiaries, payment of higher premiums than normal due ones and subsequent claim for refund to be made to a third person, receipt of insurance premiums by brokers or financial intermediaries in offshore centers that fail to observe registration or evidence rules, to which in fact they are not intentionally contractually bound.

### **Systems used in money laundering**

**a) Offshore destinations.** Offshore havens are countries or territories, often islands or group of islands, which support fictitious implantations of companies, simply used as mailbox, elastic regulations areas in terms of currency exchange control and great freedom of taxes, providing at the same time, almost without exception, impenetrable bank secrecy and many relevant rights to private companies.

Once the money is converted into a form that can be transferred or which may be smuggled, they usually take the path of an offshore center.

This system offers real practical advantages that criminals are aware of. First, funds are placed in the geographical areas protected by jurisdictions that do not allow the influence of jurisdictions in which profits were obtained. On account of involving another jurisdiction, there emerge several legal and financial barriers in the way of investigative bodies, both in terms of achieving, as well as in terms of conserving or exploiting the evidence that can be upheld in court. Secondly, many countries are still facilitating money receipt from abroad irrespective of their origin or remittance method, money that can go directly and discreetly in the conventional banking system, since there is no obligation to pay taxes, there is no evidence of share capital, no double taxation agreement, no obligation to keep accounting records, no directors or shareholders registered, ignorance of people who hold decision-making power in the company, ignorance of the identity of the beneficial owner, etc. Typically, owners of companies are not resident in countries of incorporation of their companies, these persons being represented by proxies, who receive orders via previously agreed encoded methods.

Tax havens are one of the most common procedures used in fraud and tax evasion at international level.<sup>3</sup>

**b) Shell companies.** Essentially, shell companies are those that exist only on paper. The company's incorporation documents may include a valid bank account and something more than the name or address of lawyer or agent in charge of setting up the company, proxy and perhaps any shareholders.

It comprises those companies having no significant assets or own business operations that are used by their owners to conduct their business or to maintain control over other companies. A shell company is registered in the country of incorporation, but it is not traded on capital markets, and does not operate independently. Being not in themselves illegal, money launderers, white-collar criminals and terrorist financiers can relatively easily convert and use them to disguise illicit source of income. These companies are easy to set up and can be connected with other shell companies in the world. If a shell company is incorporated in a jurisdiction with a rigorous legislation in terms of bank secrecy, it is almost impossible to identify true owners or directors of the company and, therefore, it is impossible to monitor illicit funds reimbursed to the beneficial owner.

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<sup>3</sup> M. Mutu, *Off-shore – între legal și ilegal (between legal and illegal)* // Revista Națională de Drept (*National Law Review*), no. 7/2003.

A successful technique used by law breakers is to set up shell companies in order to sell shares to “foreign investors”. These “foreign investors” are, actually, intermediaries employed by money launderers. Buying shares is performed on account of legally required documentation and, thus, the money comes legally into possession of offenders.

Usually, setting up shell companies is performed not by owners, but by agents, who select jurisdictions that offer the advantages of fast incorporation, low cost of registration, minimum clauses or in search for those geographical areas which facilitate the emergence of companies “thick and fast”, locations where no information about the owners is required or where the disclosure of such information is strictly prohibited<sup>4</sup>.

**c) Employing freelancers.** Lawyers, notaries, accountants and other freelancers carry out a significant number of activities in support of their clients, organizing and administering their financial and commercial businesses. First and foremost, they assist individuals and corporations in areas such as investments, company incorporation, administration, management, optimization of their financial standing and other legal transactions. Moreover, legal advisers also prepare, and, if necessary, gather necessary documentation for the setup of companies. In many cases, in return for substantial material benefits, such professionals may be directly involved in carrying out specific types of financial transactions, for example, keeping money or paying the price for the purchase or selling of real estate. Some of these freelancers come to specialize in identifying companies or offshore locations for using them in money laundering schemes, fabricating all necessary professional documentation, providing thus a semblance of business legality.

Essentially, freelancers employed as intermediaries possess knowledge and skills that can be used by law breakers for converting illegal profits into legal income.<sup>5</sup>

**d) Alternative money transfer systems.** Alternative fast money transfer systems (SAT) allow money to be in circulation around the world without using the conventional banking system. SAT may be used for both legal and illegal purposes, and can exist in various forms. Records of all operations are usually kept, but these may be done in dialect, in abridged form or under unfamiliar language to investigators and therefore it may be difficult or impossible to interpret it.

For obvious reasons, SAT is an attractive and widely used system by organized crime networks and dangerous offenders. SAT is used not only to launder proceeds of crime, but also to avoid tax fees and customs duties. Anxiety is manifested internationally relating to the fact that SAT can be easily used in terrorist financing. It is estimated that there are thousands of SAT bankers in Europe, mainly falling under the heading of Asian communities, and their customers are ordinary individuals and not offenders.

Although it is a discrete business, underground economy bankers are probably known and respected within the Community for the services provided in terms of transferring money earned abroad to home families, often at a better exchange rate and under a commission lower than that of banks or official fast money transfer systems.

Money transfers are usually used by people who do not keep a traditional relationship with the bank and who want to transfer money to their country of origin, with minimum expense. These transfers can also be used by money launderers. Through the medium of an international network of agencies located all over the world, one person can electronically transfer money quickly (usually within about 10 minutes), reliably, conveniently and in exchange for charm prices to any other person in one of more than 150 countries.<sup>6</sup>

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<sup>4</sup> N. Moldoveanu, *Criminalitatea economico-financiară în societățile comerciale (Corporate White Collar Crime)*, Bucharest, Global Print Publishing House, 1997, p. 87.

<sup>5</sup> Th. Mrejeru, *Evaziunea fiscală (Tax Evasion)*, Tribuna Economică Publishing House, Bucharest, 2000, page 82.

<sup>6</sup> *Paradisuri financiare, Sinteze (Tax Havens, Syntheses)*, no. 1/2000, M.I. Publishing House, Bucharest, page 14.

**e) Casinos and the Internet.** A casino is a commercial gambling club that offers various types of gambles, such as slot machines, which asks for coins or chips to be activated.

Casinos are vulnerable to being manipulated by money launderers due to the speed and intensive nature of cash games and because in a large number of countries casinos provide their customers with a wide range of financial services. These services available in casinos are similar in many cases with those provided by banks and may include credit or debit accounts, facilities for sending or receiving funds directly from other institutions, as well as foreign exchange services and cash collection checks.<sup>7</sup>

Casinos in Romania have not yet applied formal financial services, but we can not exclude the fact that they might be interested in these services in a short period of time.

Risk of money laundering is considerably high because the Internet at use in these clubs provides easy and almost universal access, eliminates face-to-face contact and is extremely fast and efficient in the removal of borders. There are three features of the Internet, which together tend to aggravate some conventional risks of money laundering:

- easy access via the Internet;
- contact between the customer and the institution is depersonalized;
- speed of electronic transactions.<sup>8</sup>

**f) Registered and bearer bonds companies.** Shareholder certificates are documents attesting priority over the corporation or the company. In most countries, the shareholder is registered and any transfer of shares to another person must be registered in an official register. However, some jurisdictions can provide ownership or transfer of shares under a “bearer” form.

These bearer shares confer ownership rights over the company more than the current ownership of shares. These “bearer” shares do not imply any record of the shareholder and the person who is in physical possession of the shareholder certificate is the owner of a relevant part in the company. It is therefore likely that the true owner of the company may not appear in any records of companies or any government statistics. When the identity of shareholders is not registered by the time of issue and transfer of shares, ownership is anonymous. Such companies represent an excellent means for acquiring, holding and transferring wealth anonymously, under cover of financial control or judicial bodies.<sup>9</sup>

**g) Using non-profit organizations.** Non-profit organizations collect hundreds of billions of dollars annually from donors and distribute this money to beneficiaries –after paying their administrative costs. Both their administrative expenses and the amount and necessity of beneficiaries’ expenses may be exaggerated and their usefulness difficult to assess.

Use in bad faith of non-profit organizations for money laundering and terrorist financing is a method commonly used by organized crime networks, these entities being for the most part established for such purposes specifically<sup>10</sup>.

This issue came to the attention of the International Financial Action Task Force (FATF)<sup>11</sup>, the G8 and the United Nations, as well as the attention of domestic authorities in several regions.

Out of the studies carried out globally, there come to the front the **following sources of “dirty money”**:

1. drug trafficking;
2. smuggling of weapons, ammunition and explosives;

<sup>7</sup> Gh. Nistoreanu, *Infraționalitatea în domeniul informaticii (Cybercrime)*, in Dr., no. 10, 1994.

<sup>8</sup> T. Amza, *Criminalitatea informatică (Cybercrime)*, Lumina Lex Publishing House, Bucharest, 2003, page 59.

<sup>9</sup> M. Coșea, *România subterană (Underground Romania)*, Economica Publishing House, Bucharest, 2004, page 105.

<sup>10</sup> Gh. Mocuța, *Metodologia investigării infracțiunilor de spălare a banilor (The Methodology of Investigating Money Laundering Offences)*, Noul Orfeu Publishing House, Bucharest, 2004, page 230.

<sup>11</sup> The International Financial Action Task Force.

3. illicit traffic in cultural heritage assets, gold, jewelry and precious stones;
4. tax evasion;
5. kidnapping followed by ransom;
6. trafficking in human beings (prostitution and pimping);
7. political corruption;
8. counterfeiting trademarks, banknotes or any other means of payment;
9. bank frauds and tax frauds<sup>12</sup>.

An important indication of a serious anomaly in the international circuit of economic transactions is the fact that the total amount of overall balance of payments is zero.

More specifically, the total goods and services exported from any country and all countries should be equal to the total imported goods and services. Accordingly, the total balance of payments deficits of all countries should strive towards zero.

Since 1970, the difference between the global value of imports and exports has emerged and continues to increase, reaching a maximum of \$ 100 billion in 1994, level still conserved.

This difference can be explained only by the fact that methods of recording international transactions are not working properly or that a substantial part of these transactions occur outside the legal and official framework.

A hypothesis under which it may be explained this apparent aberration is the one based on illegal capital flows, unrecorded in official statistics and caused by the double invoicing of exports and payments by beneficiaries residing abroad, failing to declare them to legal authorities.

In order to understand to some extent the explosive growth of the mass of speculative capital that flows through the veins of international finance, it is necessary to analyze some more or less common processes, whose association with money laundering has not been reviewed so far.

One of these is the process of development and integration, both nationally and internationally, of illicit markets. This development of illegal markets, especially in the last two decades has resulted in a corresponding expansion of transnational white collar crime and the need for them to establish connections with institutions hosting "countryless" capitals. It can be asserted with certainty that any major criminal action, which seeks maximum gains, continuity of operations and counteraction of official organizations, shall reach the critical moment of integration requirement into the banking and financial system.

Techniques used for "money laundering" originating from illegal businesses are greatly diversified and, presumably, many of them are unknown to specialists within bodies charged with financial control and fight against law infringement.

It can be asserted that, fundamentally, the basic technique comprises four successive stages:

1. The establishment of lock boxes - Money originating from illicit business is deposited in various lock boxes. These accounts are real bank deposits to be transferred. These accounts are designed to camouflage and are usually established on behalf of fictitious companies, being therefore hardly identifiable.

2. Bank wire transfer from lock boxes to accounts opened with foreign banks - Monies accumulated in lock boxes are transferred to accounts in foreign countries, through a number of complex operations which aim to prevent identifying the real source of money. In order to successfully carry out this stage, two types of countries are preferred:

- a) countries guaranteeing bank secrecy and making it a state policy (Switzerland, Liechtenstein);
- b) countries facing economic difficulty and which, under laws developed, are constantly struggling to attract foreign capital (developing countries, third world countries);

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<sup>12</sup> C. Păun, *Crima organizată sau organizarea crimei? (Organized Crime or Crime Organization?)*, A.I.I.Cuza Police Academy, Bucharest, 1993.

3. Investing monies in illicit businesses yielding benefits:

4. Reimbursement of “laundered” money. - Repatriation of benefits now smelling “clean”, which accounts for the entire operational complex from the perspective of interested parties.

It should be noted that, regardless of the complexity of the technique of “laundering” money originating from illicit business, it can not be translated into practice devoid of the public servant’s seduction and participation<sup>13</sup>.

Towards a better understanding therein, we shall mention thenceforth some of the money “laundering” techniques most commonly used.

1. Double invoicing.

Accordingly, a company buys at overvalued prices goods or services of a company incorporated in a country, preferably with favorable tax laws. This system allows the export of surplus capital. Typically, the company in the haven country is a business affiliate or falling under the heading of the same corporation.

2. Real estate speculation simulated

It deals with purchasing a property by underestimating its real value and reselling it after making some “improvements” to its fair value. Ex.: A person buys a property which is worth 5 million lei, but official documents set forth the price of 3 million lei, the difference being made up “as agreed” in cash. Subsequently, the same property is sold at its fair value.

3. Loan in cash, followed by reimbursement through the instrumentality of banking tools.

This reimbursement may be covered through fictitious contracts hardly controllable (e.g. consulting, know-how, etc.) Bogus loan technique is also applicable.

4. Money laundering in casinos legally established, a system that allows laundering of dirty money and counterfeit banknotes, as well.

The system employed is based on that gambling chips can be unlimitedly purchased with cash, while earnings may be transferred, upon request, directly into the personal account or the account of another person, company, their origin being grounded. Holders of such liquid capitals accumulated out of “dirty” money take advantage of this situation and organize a real circuit of legality. However, this technique is quite laborious, it implies the assumed risk of losing substantial amounts of money and does not allow “laundering” of large amounts of money. The system is widely used by counterfeit currency launderers (obviously high-class counterfeit currency)<sup>14</sup>.

**Sources of dirty money**

**a. Trafficking in Human Beings (“mass” prostitution and pimping).**

An explosive phenomenon manifested immediately after December 1989, which lately has assumed a more organized form, stands for prostitution and pimping.

The alarming evolution of prostitution, especially among minors, in some cases caused by blackmail and forced determination spread abroad, entailing the risk of sexually transmitted diseases and even AIDS.

The eagerness for easy and quick earnings determined that many subjects from balanced families, decent and honest, with a high school or even university education enter the crime scene of this kind of facts that amplified the phenomenon alarmingly.

However, many active prostitutes on record, disposing of capital, associated with old pimps becoming entrepreneurs and owners of commercial establishments but, in parallel and in disguise, also deal with the placement of young women to different people, especially foreigners, in exchange for safe and consistent profits.

<sup>13</sup> C. Voicu, *Investigarea criminalității financiar-bancare (White Collar Crime Investigation)*, page 201.

<sup>14</sup> Șt. Popa, *Economia subterană și spălarea banilor (Underground Economy and Money Laundering)*, Bucharest, Expert Publishing House, 2000, page 211.

Another category of prostitutes and pimps, promptly exploiting existing facilities moved their territory of action in other countries, especially Turkey, Greece, Cyprus, Austria, Hungary, Italy, Germany.

Investigation of individuals from these categories, claims filed by some parties as well as data and information obtained through relevant work methods, revealed that some young women, many of them underage, failing to get employed after graduation fell victims to some “entrepreneurs” who recruited and enchanted them, offering them travels abroad to earn money by providing various services, such as: dancers, housekeepers, waitresses, babysitters etc.

In fact, upon arrival at destination, lacking material possibilities for maintenance or getting back home which have not been provided as promised, a lot of young girls were forced or encouraged to accept pimps and employers’ “advice” to practice prostitution, for their benefit.

There are also prostitutes and pimps operating in hotels and catering complexes in urban centers, on international traffic routes or in the mandatory parking or standing places for foreign vehicles, especially truck trailers (TIR).

Prostitutes often commute from one country border to another, in the company of foreign drivers to whom they provide sexual services in return for local and foreign currency amounts or items of clothing, cosmetics, jewelry and more.

Trends and new forms of manifestation of crime in this area, in full accordance with the general evolution of the criminal state, urged police units to act more resolutely in fighting crimes of this nature.

There have been cases where misunderstandings arose between group pimps, in terms of placing prostitutes, which have resulted in assaults that also endangered the physical integrity of other people, happening to be in the relevant area at that very instant.

#### **b. Motor vehicle theft and international trafficking in stolen vehicles.**

This international business spread extensively, focusing mainly on stealing luxury West vehicles, which are then turned to profit on different channels, where the Romanian law breakers have begun to make their presence increasingly felt and active within the Italian, German, Polish and Bulgarian networks of thieves and smugglers.

So far, 567 luxury vehicles stolen from Western European countries have been frozen, 186 of them being returned to legal owners, for which criminal proceedings were discontinued.

Investigation of these cases, including verification and exploitation under evidence of data and information obtained during the judicial inquiry processes, records difficulties due to lack of personnel specialized in the investigation of such facts, and the diversity of operation methods and forged or counterfeit documents by offenders, circumstances that make it extremely difficult to prove their guilt.

It is therefore ascertained the existence of a criminal collaboration between these networks, particularly in taking advantage of stolen vehicles, covering actions by fabrications, transporting stolen vehicles and even exchanges of similar vehicles.

#### **c. Trafficking in counterfeit money**

In the context of growth and diversification of white collar crime internationally, forgery of money and other securities, as well as trafficking in similar counterfeit or forged payment methods are experiencing an alarming recrudescence, which is why all the police in the world and other specialized bodies in the field of banking services are on permanent alert, constantly seeking new ways to counter-balance the phenomenon.



On these lines, frequent breach of regulations in force has been manifested by Romanian citizens concerned to procure, by any means, freely convertible currencies and multiple opportunities have been created for false or counterfeit banknotes to be placed on the territory of our country<sup>15</sup>.

Radiography of forgeries investigated by the judicial police, the correlation of data and information obtained on different channels prove the fact that in Romania there have been organized networks of smugglers, who operate according to mafia principles, their purpose consisting almost exclusively in the procurement of false currency.

To this fact it should be added the large inflow of foreigners coming to Romania, many of them exchanging money "under the counter", thus avoiding specialized units, which stands for another circumstance favorable for the placement of counterfeit banknotes.

Taking our stand upon these conclusions drawn from the analysis of recorded cases, from data and information obtained during relevant police work, there have been undertaken appropriate training activities for fighting against law infringement targeting population and especially the staff within public and private specialized units, which carry out foreign trade and exchange operations.

In this respect it has been provided qualified training of agents working in foreign exchange offices, and in order to prevent citizens, there were brought forward by means of mass - media, real cases, highlighting the risks they are exposed to when accepting foreign currency acquisition by other means than the legal ones.

During 1991 - 1992, especially after the abolition of specialized stores with payment in foreign currency, Romanian and foreign subjects charged with placing money directed their attention primarily to individuals, amateurs of travels abroad or buying foreign currency for the purpose of converting it into treasury bills.

This is because subjects charged with placing money have been notified of the risks and difficulties encountered in carrying out their criminal concerns to the detriment of the state or private establishments, specializing in the field, whose staff is well trained, managing to detect counterfeits ever since their introduction<sup>16</sup>.

During specific activities undertaken to prevent and combat international trafficking in counterfeit money, there have been obtained on multiple channels data and information attesting the presence in Bucharest of a powerful criminal organization, led by Western German citizens – bosses of disco "Le Baron" in Floreasca district that introduces and places fake currency in Romania.

In order to acquire significant financial benefits, they organized the placement of counterfeit banknotes through the medium of disco staff recruited Romanian citizens.

In conclusion, it should be noted that, in the context of manifestation of crime in counterfeiting and its trend of expansion, there is a real danger hanging over the national currency, although up to now, at domestic level, there were only four cases of placement of 500 and 5,000 lei banknotes, respectively, rudimentary executed by black and white reproduction, subsequently colored, that were placed in crowded places or at night and only in one case, eng. Tafta Gheorghe from Bucharest, respectively, it was used a color copier that made over five million lei, the forger being promptly uncovered.

This threat is primarily due to the introduction in Romania by private companies of a large number of color copiers, which stands for the biggest practicability of banknotes forgery by almost perfect reproduction, with the laser beam, which simultaneously achieve both their faces, methods of payment and other bonds.

#### **d. Trafficking in works of art**

Protecting national cultural heritage, national and universal cultural value present in our country has been a concern of the Romanian state since the last century, Romania ranging among the

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<sup>15</sup> I. Melinescu, *Investigațiile financiare în domeniul spălării banilor (Financial Investigations in the Field of Money Laundering)*, Bucharest, Imprimeria Națională Publishing House, 2004, page 77.

<sup>16</sup> N. Moldoveanu, *op. cit.*, page 56.

first countries in Europe to pass a bill on ancient monuments and objects in 1892. Subsequently, the legal status of these values has been enriched and broadened through the enactment of new laws, among which we mention the Law for the conservation and restoration of historic monuments of July 28<sup>th</sup>, 1919, the Law on the organization of public and municipal libraries and museums of April 14<sup>th</sup>, 1932, Regulation on public monuments of December 16<sup>th</sup>, 1938, Decree Law no. 803 of September 20<sup>th</sup>, 1946 on the organization of national museums and Decree No. 46 of March 6<sup>th</sup>, 1951 on scientific organization of museums and conservation of historic and artistic monuments.

Protection of these artistic cultural values integrated into the Romanian national cultural heritage was regulated until early 1990 by Law 63/1974 and other regulations issued in implementation thereof, identification, recording, preservation, conservation, scientific and commercial exploitation, as well as public release of all goods that made up the national cultural heritage being enacted in a uniform manner all over the country.

Throughout the entire period, as long as Law 63/1974 has been in force, it was acted firmly in order to identify goods which may be part of the national cultural heritage and for their owners, individuals or legal entities to meet their incumbent legal duties.

Therefore, in consequence of the measures taken, there were recorded in the offices of the national cultural heritage over 15 million units of cultural property declared by religious museums, state bodies, public organizations and individuals following specialized tests performed thereupon, appreciating that approx. 4.5 million represent assets which may be part of the national cultural heritage of Romania.

Of these, under specialized expertise performing at the end of 1989, there were selected 620,591 assets from national cultural heritage, of which 35,027 were included on the list of personal property with particular value, 8,489 on the list of historic and cultural monuments, 372,939 were recorded as numismatic pieces and objects of metal and precious stones, and 117,220 were entered into the general inventory of assets belonging to the former monarchy.

Repeal of Law no. 63/1974 and other regulations issued in implementation thereof lifted all barriers and obstacles that stood in the way of smuggling and illicit trade in works of art and increased interest of businessmen and private collectors in Western Europe, North and South America, and Japan in recent years, in the acquisition of such items.

In the former Czechoslovakia, for example, from 1990 until now, there were stolen and taken out of the country over 30,000 works of art, of which less than 8% were recovered.

In Poland, all that stood for valuable work of art has been stolen or sold, unlawful removal of such property across its borders reaching incredible levels.

This was also facilitated by untrustworthiness of Polish customs officers, which led the authorities in Warsaw to lay off more than 160 customs officers caught in the act of bribery.

Concurrently, analysis of existing data and information at European level leads to the conclusion that the legal trade of such assets has become insignificant, being overshadowed by the illegal market, supported and supervised by specialized networks with well established organizational and hierarchical structures.

According to the most recent data, the illegal market of works of art in Europe pulls in annually illegal income amounting to more than \$ 6 billion and is controlled by two well-organized trafficking networks, consisting mainly of criminals in the former Yugoslavia, but with connections and accomplices in all European states.

Cases investigated emphasize the fact that, in our country, illicit trade and illegal trade in works of art, facilitated in many cases by persons nominated to undermine the relevant process, experienced considerable expansion.

Only the case investigated in Cluj proves that, under a single branch organized in Cluj County, but with connections in Bihor and Arad Counties, as well, in which were involved over 20 people, including specialists from the Heritage Departments and customs controllers, there were

illegally moved out of the country works of art and assets pertaining to the national cultural heritage, assessed at several tens of millions of lei.

This case has not been and is not singular, existing information referring to real networks of traffickers in such assets, well-organized acting in Romania and having established branches and connections in major Western capitals. It is well known that many people, current and former Romanian citizens live a secure life for many years in major European capitals on account of “tipping-off”, relating to the existence of valuable works of art in private, public or religious collections in our country, which are subsequently smuggled out, being acquired illegally, and in some cases even stolen from their owners and holders.

Concurrently, the number of works of art stolen from private collections, museums and religious units grew disquietingly, as the result of express request of private virtuosi or even accession to some catalogs specially designed for this particular purpose.

“The illicit trade in art” stands for a case in a class of its own.

The relevant explosion of units performing activities relating to marketing, assessment, expert appraisal and even authentication, restorations or endorsements of works of art, as well as those brokering such businesses is unprecedented. No rules are observed, non existence of depositors or purchasers records, unauthorized or unqualified people to that end are employed as specialists, invaluable cultural heritage assets are being threatened to fly to the winds, to be undervalued in order to evade customs duties or other legal provisions or that the market be flooded with fakes that have been authenticated as original works.

Faced with this real phenomenon, police in most Western European countries set up police units or divisions specialized in this area, among which those in Italy and France are considered to be the most effective.

Watching closely international and national crime developments and trends, bearing also in mind the recommendations of OIPC (*Office of the Information and Privacy Commissioner*)- Interpol addressed to Member States and in view of the emergence and accentuated development of this form of “organized crime” in Romania, it has been ordered the reorientation of the entire business on this line, taking effective measures aimed at getting familiar with and mastering to the utmost extent the criminal phenomenon, both domestically and in terms of international routes of organized crime.

#### **e. Illegal emigration (“Moving across the border”) – “guides to the West”**

There is increasing criminal activity of trafficking networks dealing with the illegally crossing of our country by some groups of immigrants, usually from Sri Lanka, Pakistan and Bangladesh, which are recruited in their countries also on the route Singapore - Moscow – Chisinau, aiming to reach Western European countries.

Participants in the network of introduction in Romania of Asian citizens and their taking out towards neighboring western States receive large amounts of foreign currency, which in some cases are laundered through the instrumentality of companies and private agencies set up in our country.

Networks in question show thoughts to organize clandestinely and as strictly as possible, establishing strong points of support such as buildings, companies, hosts and reliable persons in several countries on the transition section, aimed to provide increased security to this business involving large amounts of money and foreign currency, as rumored.

To prevent removal of illegal immigrants from our country by the Romanian authorities, being returned to States where they came from, they are advised by the heads of networks and guides to destroy their identity documents and other supporting documents (invitations, visa, currency values) issued by countries crossed.

In the years 1993 - 1994 alone, at least 54,000 foreigners have been tracked down during illegal border crossing and sent back by border officers to neighboring countries (Hungary, Bulgaria, Moldova), numerical preponderance being held by citizens of Sri Lanka, Pakistan and China.

In addition to these, on the Romanian territory there is currently a significant number of immigrants who are staying at different addresses, and especially within the area of towns adjacent to the western border of our country, awaiting to cross the border illegally to neighboring countries.

#### **f. Trafficking in radioactive materials, toxic waste and weapons**

Although there were no clear warning signals recorded in time on this issue, cases discovered surprised, though, in terms of the large number of people engaged in various acts of law infringement and the special implications they could have in the society.

Considering that trafficking in polluting wastes and residue and radioactive materials stands for a high threat for Romania, there were carried out within jurisdiction appropriate specific activities to counteract the concerted actions of a foreign specialized criminal organization in the setting up of disguise transfer connections and channels for such products in our country<sup>17</sup>.

#### **g. Drug Trafficking**

Opening of borders entailed a huge increase in the number of persons, means of transportation, goods and services entering or leaving Romania. This extremely favorable situation was and is still speculated by trafficking organizations that use Romania as an important beachhead connecting the East to the West.

Alongside the special geographical position held by our country, another issue to be considered is the current situation in former Yugoslavia. Due to the conflict in this country, the center of gravity of drug trafficking moved to the second segment (as it was considered so far) of the "Balkan route", which also includes Romania. Criminal organizations avoid thus the loss of large amounts of drugs pumping them big gains.

In close relation to this last point, it is worth mentioning that fabulous amounts entailed from drug trafficking attract Romanian citizens, as well. Foreign criminal organizations are sending their emissaries in search for connections among Romanian law breakers, operating thus with the view to organize and internationalize drug trafficking.

On these lines, if in 1991 and 1992 only one Romanian was involved in drug trafficking, in 1993 the number has risen to 15, while in the first six months of this year it reached 27, which represents almost 60% of the total persons investigated for such acts.

Another category involved in this kind of crime is represented by people who left the country several years ago, settling and living abroad. Many of them were drawn in different international networks, acting currently as intermediaries or messengers. Over time, they collected large sums of money, which they have invested in Romania after the revolution, where they returned and actually live.

Mafia-type organizations to which the said persons belong spread thereby their tentacles in our country, and according to some data, part of "dirty money" resulting from drug trafficking is "laundered" in Romania.

On grounds of good cooperation between the competent bodies in our country and around the world, there can be achieved good results in terms of fighting against drug abuse and trafficking and there have been undertaken efforts for close cooperation with bodies and organizations both in Europe and in America and Asia.

It also turns out an intensification of criminal organizations in South America and other parts of the world, on account of diversification of methods of introducing in our country drugs bound for Western Europe and with the participation of groups of criminals in Europe, Colombia, U.S.A., Asia, Africa and Romania.

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<sup>17</sup> I. Pitulescu, *Considerații referitoare la infracțiunea de spălare a banilor (Approaches on the Money Laundering Offence)*, Dreptul (Law), 2002, no. 8, page 99.

As regards the illicit production and legitimate movement of drug substances and products, precursors and essential chemicals, there is a strict control of production and units producing medicines containing narcotics and units producing opium poppy for medical use, but also economic agents in the chemical industry. These measures that have been taken jointly by the concerned bodies and organizations in Romania prevented from occurring cases of fraudulent use of narcotics and precursors in the illicit production.

To the same purpose, there have been approved measures of accreditation by the relevant Ministries of imports and exports of essential and precursor chemicals that can be used to manufacture or illicit conditioning of drugs, and a draft law on the legal status of these substances was recently issued by the Ministry of Health in collaboration with other institutions and with the support of the European Community (under the Phare programme for the fight against drugs), which shall be submitted to the relevant Ministries and other competent institutions for approval and adoption.

On account of this set of rules implemented, it can be asserted with certainty that there are no clandestine laboratories in our country and that no synthetic drugs have been discovered so far.

Although to date there were reported no cases of drug addicts among Romanian citizens requiring hospitalization in rehabilitation centers, the data held reveal that there are people who take drugs occasionally (mainly marijuana and hashish). These people come especially from among youth, especially high school students or prostitutes, and the number of flagged ones is ever-growing. This fact should pose a significant policy concern for both bodies responsible for the suppression of illicit drug trafficking, and those holding prevention responsibilities (Ministry of Health, Ministry of Education, Ministry of Labor and Social Security and other governmental or non-governmental bodies).

Likewise, the Romanian authorities are facing lately a relatively new phenomenon that is spreading rapidly. It is about consumption (inhalation) by some underage and young people of volatile substances, which are not drugs in the word's meaning itself, but we argue that they might stand for the gateway to the genuine drugs. Educational measures were undertaken as regards these people, in joint connection to educational factors, such as: child welfare authorities, charities, schools, medical institutions.

Although there was a significant step taken in the legislative field by joining the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in Vienna in 1988 by Decree no. 121 of June 24<sup>th</sup>, 1992, the Romanian legislation on drugs has not rallied to the international one, which hampers the work on this line, being completely overcome as to the existing reality. The new draft law on establishing and sanctioning substances and psychotropic offenses, on account of its provisions relating to the amount of sanctions, the measures to be taken against traffickers and modern methods of combating illicit consumption of drugs, etc. shall create the legal framework requisite to carry out an efficient activity in these areas, in line with international standards.

We believe it is worth pointing out that within the 48<sup>th</sup> Plenary Meeting of the UN held between 26<sup>th</sup> and 27<sup>th</sup> October 1993 attended by heads of government and ministers charged with coordination of overseeing health and social protection in 130 countries, it was put forward the issue of international cooperation against the illicit production, sale, demand, traffic and distribution of narcotic drugs and psychotropic substances.

It has been highlighted that all authorized bodies in this area are deeply alarmed and concerned by:

- constant uncontrolled rising trend in drug abuse, illicit production of and trafficking in narcotic drugs and psychotropic substances that threaten the health and well-being of millions of persons – in particular the youth, in all the countries of the world;

- growth of the drug problem which entails increasing economic costs for governments, causes irreparable loss of human lives and threatens the economic, social and political structures of the countries affected by acts of violence;
- growing violence and economic power of the criminal organizations that engage in the production, trafficking and distribution of drugs, arms and precursors and essential chemicals, which at times place them beyond the reach of law;
- intimate acknowledgement of the existence of obvious causal connection between poverty and the increase in the production of and trafficking in narcotic drugs and psychotropic substances and that the ideal solution for solving this problem is the international cooperation and its permanent development in all its aspects (information, logistics, material, direct and coordinated action, ongoing exchange of experience, etc.).

It was also substantially argued that the magnitude of organized crime, drug trafficking in particular, requires the formulation of new strategies, approaches, objectives and enhanced international cooperation that, respectful of the sovereignty of States, deal more effectively with the international operations of those who get rich through the illegal traffic in drugs, precursors and essential chemicals, threatening the stability of many societies in the world.

## Conclusions

Conclusions drawn from the white collar criminal phenomenon review ground the fact that, on account of failure to adopt new regulations specific to market economy such as: bankruptcy act, tax evasion indictment law, the regulation on the transfer of currency, etc., as well as decriminalization of offenses on public property, the criminal phenomenon is increasing. In this context, the application of provisions relating to crimes on public property by the small amount of sanctions does not achieve the requisite general prevention, being even stimulating in some cases. Not incidentally, decision-making factors in the economy have been corrupted or bribed, directly participating in economic crimes with great impact on the state's assets, public-owned companies' patrimony in favor of private operators. Smuggling takes on an organized character mainly on account of the use of false or formal documents of criminal ties abroad and border crossing in places other than those subject to customs control.

"Dirty" money is a concept as innovative as it is unclear. Mainly, it is used by criminal organizations, or by other subjects, as a method of earning income and withholding taxes. It is difficult to track "dirty" money, on the grounds that it may take different forms, and the destructive power of "dirty" money movement is called *money laundering offense*. The very concept of "*money laundering*" is relatively recent in legal vocabulary, but the necessity to disguise the nature or existence of proceeds of crime, or at least, doubtful emerges in the twentieth century.

Money laundering encompasses methods and procedures allowing for acquiring funds or other property generated from illegal business and concealment, disguise of their origin, or lending their sources a clean-looking semblance. The offence under review is growing into one of the most common types of white collar crimes, both nationally and internationally.

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