
CRIME – AN INTEGRAL PART OF SOCIAL LIFE

Costina SFINTEȘ*

* Scientific Researcher, Institute of Research, Development and Innovation, Constantin Brancusi University of Târgu Jiu, Romania

Abstract: *Crime as a set of violations of criminal law that are committed in a given period and space constitutes, as is known, a social phenomenon, both because it takes place in society within the framework of relations between members of the social group, but also because it is of decisive interest to society and influences the smooth development of social coexistence relations.*

Being a social phenomenon, crime is inevitably influenced by the changes that have occurred in society, which has led to modifications and transformations of the substance of the criminal phenomenon (quantitative and qualitative), attracting changes in the means of combating crimes, including the content of criminal legislation and criminal procedure, as instruments of the criminal policy of states in the fight against serious violations of social discipline.

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**Contact details
of the
author(s):**

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Economic and social life is in a state of continuous change and evolution; the diversification and expansion of the territorial coordinates of commercial changes have made the image of the world we live in different from the one that existed 30-50 years ago. The modernization of economic life has also had as a direct consequence a "modernization of crime", an adaptation of crime to the new social conditions. Thus, classic property crimes or classic modes of operation, such as: robbing a bank, traditional scams have lost interest for new criminals. They have found that they can earn much larger amounts of money with much lower risks by using more sophisticated procedures, such as: money laundering, fraudulently obtaining subsidies or facilities, embezzlement of funds, tax fraud or fraud regarding commercial transactions via the Internet.



We can see that the role of legal entities, especially those operating in the economic field, is becoming extremely important in the configuration of the new criminality. The greatest benefits are obtained not by harming individual assets, but by infiltrating and exploiting the collective assets of commercial companies.

The phenomenon of money laundering, as well as the phenomenon of tax avoidance and tax evasion, have been in an inseparable symbiosis throughout history. Although tax evasion and money laundering share the same techniques and even support each other, in the sense that in both situations, legal income becomes illegal, money laundering is the opposite of this process, so that the money in question has an illegal origin, but through the laundering process it is given a legal appearance, and its use is then taxed by the state.¹

The philosopher and moralist Francois de La Rochefoucauld said: "to know things well, you must know their details; and since the details are almost infinite, our knowledge remains superficial and imperfect"².

Money laundering is and will remain a complex and dynamic phenomenon of great diversity, both in the public and private spheres, manifesting itself both actively and passively, but also a phenomenon little known to ordinary people. This crime appears to be victimless and devoid of the emotional implications of violent crimes or theft. The "discretion" surrounding this type of crime is, in fact, one of the major difficulties encountered by investigators.

In the matter of money laundering, history shows that the foundations of this complex phenomenon were laid many centuries ago, and what followed was more of a modern adaptation of a "classic play". The confiscation of assets where they were of criminal origin is an example of this; the modern laws that facilitate these operations have their roots in British traditions in the field of common law. Initially, most confiscations were punishments imposed for political rather than economic reasons, as in modern society, they were often determined by the desire to increase the wealth of the Crown.

The "King of Chicago", the famous Alphonse (Al) Capone, went down in history as the founder of a criminal organization that turned over 100 million dollars annually. It was therefore necessary to justify these revenues and one of the methods used was the acquisition of legal businesses and mixing their earnings with those from illegal businesses. Chain stores that offered laundry services were preferred, as they obtained large amounts of cash, an undeniable advantage for Al Capone.³

This is where the expression "money laundering" was born, later used to define all illegal operations through which "black money" was obtained. This slightly romanticized origin is disputed by other authors, considering that the term "money laundering" actually shows what the activity it names consists of: money obtained from illegal sources, or "dirty", is put through a series of transactions, or "laundered", so that it appears to come from a legal source, or "clean".

Despite the efforts made at the time, neither Al Capone nor his henchmen could be proven to have laundered money. After long attempts, the American authorities had to settle for the crime of tax evasion, the only one under which the famous mobsters could be arrested.

The conviction of Al Capone in October 1931 seems to have been the turning point that led to the emergence of the money laundering phenomenon. The polish Maier Suchowljanschi, - Americanized as - Meyer Lansky, considered the financial genius of New York organized crime

¹Ion Pitulescu "Considerations regarding the crime of money laundering" - DREPTUL Magazine, no. 8/2002, page 147.

²La Rochefoucauld "Maxims and Reflections", Ed. Minerva, 1972, Bucharest, page 32.

³Cristina Adochiței, Iulia Adochiței, op. cit., page 94.



(also known as the "mafia accountant"), He was deeply affected by Al Capone's conviction and decided not to suffer the same fate.

His alliance with famous figures from the mafia clans, led by Jews and Italians, (one of his close friends, besides Al Capone, was the famous Bugsy - the one who founded the gambling empire in Las Vegas) laid the foundation for organized crime in the US for 5 decades in a row. Shortly after Al Capone's conviction, Meyer Lansky discovered the advantages of numerical password accounts in Swiss banks, thus spreading millions of dollars in bank accounts around the world for laundering dirty money⁴. He was among the first "pioneers of the state-private partnership", understanding that in order to exist, organized crime must work in cooperation with flexible government officials. Considered the "patron saint" of money laundering businesses, Meyer Lansky died in 1983 as a true "hero": he did not serve a single day in prison for the millions of dollars laundered in the name of the Mafia and defeated the American state in all the tax evasion trials that were brought against him.

Meyer Lansky is considered to be one of the most influential "money launderers" of all time, being credited with the first proper method of money laundering, called "loan reversal", which means that sums of money from dubious businesses could be disguised as loans granted by lenient foreign banks.⁵

Money laundering experts have not yet been able to unravel all the intricate mechanisms used by Meyer Lansky. Some - such as those in Cuba and the Bahamas - have never been detected, so it has been concluded that, most likely, some of the money never returned to the American economy.

Relevant in this context are the statements made by Giovanni Falcone, the famous Italian judge, assassinated by the Mafia on May 23, 1992: "The Mafia constitutes a logical world, more rational and more implacable than the State. The Mafia is an articulation of power, a metaphor of power, but also a pathology of power. The Mafia is an economic system, a mandatory component of the global economic system. The Mafia develops thanks to the State and adapts its behavior according to it."⁶

The phrase "money laundering" was actually used much later, its first appearance being reported in a newspaper in 1973, also in the United States, in an article reporting on the "Watergate" affair. After that moment, the phrase spread to most languages, being used on all continents.⁷

The crime of money laundering came to the attention of the authorities especially in the 1980s, when it occupied a leading place on the political agenda of many European states. It is known that the recycling of amounts derived from crimes has an obvious influence on the increase in the recrudescence of organized crime, and combating money laundering is one of the most effective means of combating this form of criminal activity.

The reference point in the process of regulating internationally the concept of combating money laundering derived from criminal activities is the UNITED NATIONS CONVENTION, adopted on 19.12.1988 in Vienna, which defined the term money laundering for the first time, but which provided only drug trafficking as a predicate offense.⁸

⁴Cristina Adochiței, Iulia Adochiței, op. cit., page 94.

⁵Cristina Adochiței, Iulia Adochiței, op. cit., page 94.

⁶Costică Voicu, op. cit., page 17.

⁷Cristina Adochiței, Iulia Adochiței, op. cit., page 94.

⁸Course notes "General Considerations on the Legal Regime and Institutional Framework in the Field of Preventing and Combating Money Laundering in Romania", "Dimitrie Cantemir" University of Târgu-Mureș, Faculty of Economic Sciences, Commercial Law course - 2008

The main source of concern was the increasing level of professionalism in the field of organized crime. Investigators realized that criminals were using increasingly advanced means and methods to achieve their goals and discovered that new forms of computer-based crime had developed, developments to which investigators did not always have ready answers.

Financial investigations are relatively new in most countries, complementing and working in direct interaction with traditional investigative methods and techniques. However, practitioners in the field have complained that the anti-money laundering measures in place are of limited effectiveness and that, in general, the effects of anti-money laundering efforts have been relatively disappointing to date.⁹ Moreover, experts in many countries have noted the lack of resources and expertise, especially at the judicial level, and that in many cases, both historically and in recent times, it has been difficult to identify the factual link between the suspicious transaction and the crime generating the dirty money, which in most cases was committed abroad. Money laundering is often, in essence, a crime that extends beyond the national borders of states. Therefore, European states have become aware of the need for intensive international cooperation in order to combat this phenomenon.

After 1989, the transition to a market economy and the opening of Romania's borders led to a spectacular increase in the cross-border movement of goods, people and capital, resulting at the same time in a serious increase in various types of criminal activities.¹⁰ The flourishing crime and the profits from it made money laundering a relatively unknown concept in the Romanian economy before 1989.

Analyzing the evolution of economic and financial crime in our society, from the 1990's to the present, it can be concluded that acts of corruption, smuggling, tax evasion, fraud in the financial and banking field and, last but not least, illicit activities generically called "money laundering" have expanded and worsened.¹¹

Doru Bulata, a member of the Romanian Office for the Prevention and Combating of Money Laundering, said that "the trends are focused on fraud in the financial and banking fields, smuggling" and other illicit activities carried out through shell companies. Official figures show that in 2000 the amounts involved in the money laundering circuit amounted to 800 million dollars, and in 2001 to about 700 million euros.

The end of the last millennium was marked worldwide by important geopolitical transformations that accelerated the phenomenon of economic globalization, equally favored by the merger of national financial markets.

Also, the leap to the computerized society through an unprecedented expansion of information systems was another premise that favored the circulation of capital, with virtually no geographical limits, so that any operator can obtain information regarding currency quotes or price fluctuations on major capital markets, being able to order through computer networks any operations and transactions from various areas of the world.

The main effect of economic globalization is that of the extremely rapid circulation of capital throughout the world, and the main effect of the emergence of computers is that money is "dematerialized", although coins and paper money still circulate, most monetary transactions

⁹President of the National Office for the Prevention and Combating of Money Laundering - Ioan Melinescu - 15.09.2003

¹⁰Petre Paul Fudulu, Adrian Baboi, Lucian Liviu Albu, Elena Simionova, Codru Vrabie, Dominique Jaques (EU expert) "Romania and EU measures to combat economic and financial crime", European Institute of Romania, Pre-accession impact studies, Bucharest, 2003, page 47.

¹¹European Community Commission - Between 1990 and 2000 the crime rate increased more than fourfold. - "2001 Regular Report on Romania's Progress towards Accession", Brussels, 13.11.2001.



involve electronic transfers.¹²(the world wide web can be used both for carrying out traditional financial transactions, but ultra-fast and extremely difficult to track, and especially for introducing the concept of "electronic money". Through a complex protocol implemented in the computer network, ordinary money is transformed into virtual currency, the transactions concluded subsequently being impossible to track, ensuring absolute anonymity - this is an extremely close future, in AMSTERDAM a commercial company called "DIGICASH" has already been established, which has introduced the virtual money payment system for its customers!).¹³

On the other hand, we must take into account that with the phenomenon of globalization, the increasing degree of internationalization of economic markets and the development of transnational commercial companies, the chances of these structures being used for criminal activities increase. Off-shore centers, characterized as areas with under-regulated and non-cooperative jurisdictions¹⁴ are intensively used by companies that carry out criminal activities for the purpose of money laundering.¹⁵

Under these conditions, it can be concluded that huge amounts of money are circulating, including dirty money resulting from drug and arms trafficking, smuggling, embezzlement of funds, to which are added the amounts obtained as a result of major acts of corruption, tax evasion, human trafficking, fraud in the financial-banking field or through computers, which are integrated into financial circuits in order to conceal their illicit origin and be placed in legal businesses.

¹²Costică Voicu "DIRTY MONEY LAUNDERING", Ed. "SYLVI", 1991, Bucharest, page 11

¹³Cristian Adochiței, Iulia Adochiței "MONEY LAUNDERING", Criminal Law Review, no. 1/2003, page 98.

¹⁴"Under-regulated jurisdictions" - refers to legal systems in which regulatory regulation in one or more of the following areas - financial law, tax law, company law, foreign exchange law, criminal law, administrative law - does not reach the standards provided for by international legal instruments in order to protect the integrity of financial systems.

"Non-co-operative jurisdictions" - refers to systems that do not meet the requirements of international legal cooperation, not signing or ratifying the international cooperation instruments developed by the UN, the COUNCIL OF EUROPE, the OECD, etc.

¹⁵Anca Jurma "CRIMINAL LIABILITY OF LEGAL PERSONS", Criminal Law Review, no. 1/2003, page 99.



1/2025

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