

ANTI-MONEY LAUNDERING – EVIDENCE FROM ROMANIA

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Abstract: *Because, today, the phenomenon of money laundering and terrorist financing has escalated, the European Union and, more recently, Romania, are looking to identify the most effective measures to counter this worrying phenomenon at international level, which risks making the financial system vulnerable. Because accounting professionals must act in the public interest, the issue of money laundering must become a priority for accounting experts and financial auditors. In Romania, in recent years, there has been some progress in the fight against money laundering, but the effort to limit this phenomenon must be intensified in the next period, starting with the legislative changes imposed by the EU.*

Key words: *anti-money laundering, Romania, professional accountants, National Office for the Prevention and Control of Money Laundering (N.O.P.C.M.L.)*

1. Introduction

In recent decades, the phenomenon of money laundering and terrorist financing has escalated and become a topic of interest at the level of the European Union (EU), which intensified the fight against money laundering and terrorist financing through the 4th Directive no. 2015/849/EU and the 5th Directive no. 2018/843/EU *on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing*. Professional accountants (accounting experts and financial auditors), together with other entities and professionals (notaries public, lawyers and other persons practicing liberal legal professions, certified assessors, tax consultants) are called to become an important part of this extensive process (Laptes, 2020).

Money laundering is done through the banking system. The latest figures published by Eurostat demonstrate that more than 75% of suspicious transactions in the area of money laundering have been reported by the credit institutions in more than half of the EU Member States (European Court of Auditors, 2021).

For the year 2022, at the EU level, two important achievements were registered in the field of combating money laundering and terrorist financing, as follows:

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- an agreement was reached on the transparency of crypto asset transfers;
- a new EU authority to combat money laundering is taking shape, under the name Anti-Money Laundering Authority (AMLA) (www.consilium.europa.eu).

In Romania, the legislative framework in the field of money laundering was outlined only in 1999 through Law no. 21/1999 and continued through the adoption of Law no. 656/2002 for the prevention and sanctioning of money laundering, repealed by Law no. 129/2019 to prevent and combat money laundering and terrorism financing. In 1999, in Romania, the National Office for the Prevention and Control of Money Laundering (N.O.P.C.M.L.) was established, which is the Financial Intelligence Unit of Romania (FIU), with a leading role in the development and implementation of the national anti-money laundering system and terrorist financing. Moreover, through its mission, N.O.P.C.M.L. becomes the guarantor and keeper of the integrity of the financial and non-financial system (www.onpcsb.ro). Today, the main activity of N.O.P.C.M.L. is that of financial intelligence (N.O.P.C.M.L., 2021). According to Law no. 129/2019 to prevent and combat money laundering and terrorism financing, which represents the transposition of European Directives in this matter, N.O.P.C.M.L. receives from reporting entities (banks, currency exchange houses, gambling entities, casinos, notaries), including accounting professionals (expert accountants and financial auditors), reports of suspicious transactions related to money laundering and terrorist financing. These reports are sent to N.O.P.C.M.L., most of the time, before the transaction is made and, in exceptional cases, after the transaction is made.

In response to the new professional responsibilities also imposed on professional accountants, the International Federation of Accountants (IFAC) has been publishing, since 2020, in several series, a guide on the fundamentals of combating money laundering, entitled *Anti-Money Laundering, The Basics*, which, in the year 2022, has reached nine parts and is addressed to professional accountants (www.ifac.org). Furthermore, in September 2022, IFAC published *IFAC'S Action Plan for Fighting Corruption and Economic Crime*, which demonstrates, once again, the need to expand the role of the accounting profession in this direction.

In recent years, according to the annual activity reports of N.O.P.C.M.L., published on the website www.onpcsb.ro, in Romania, there has been a significant increase in the number of reports of suspicious money laundering transactions (STR), which contain operations not carried out and which demonstrate the preventive side of this mechanism. From the annual activity reports prepared by N.O.P.C.M.L., it can be seen that most reporting entities are represented by banks and entities that carry out foreign exchange activities. According to the law, N.O.P.C.M.L. also receives other types of reports, which refer to:

- cash deposits or withdrawals that exceed the ceiling of 10,000 euros;
- external transfers, which exceed 15,000 euros.

Although in recent years, in Romania, certain progress has been registered in the area of combating money laundering and terrorist financing, it seems that the EU is not satisfied with the efforts made by the authorities in this direction. In July 2022, the European Commission requested Romania to correctly transpose the 5th Directive on combating money laundering into national legislation. In national legislation, erroneously, certain

categories of entities have been exempted from the obligation established by the 5th EU directive to declare their beneficial owners (true owners) in a central register (European Commission, 2022).

2. Research Methodology

This study has as its fundamental objective the analysis of the process of combating money laundering in Romania, between 1999-2008 and 2019-2021. To achieve this objective, a fundamental research was carried out, by studying the annual reports published by N.O.P.C.M.L. on the website of this institution (www.onpcsb.ro) for the period 2006-2021. Through the content of this study, answers will be formulated to questions such as:

- When was the crime of money laundering criminalized in Romania for the first time?
- When was the first official report on the phenomenon of money laundering published in Romania?
- What was the dynamics of Suspicious Transaction Reports (STR) received by N.O.P.C.M.L. before 2007, the year of Romania's integration into the EU? What about in the 2019-2021 period, when Romania aligned itself with the latest European requirements in the area of preventing and combating money laundering and terrorist financing?

3. Research Results

Although, in recent years, the EU has adopted stricter rules in the field of combating money laundering and terrorist financing, reality shows that this phenomenon is complex and difficult to counteract because it has expanded on a global scale. In order to make the fight against money laundering more efficient, additional measures are needed at the EU level, leading to a better organization of the approach at the level of each member state. The main limitation is related to the inadequate implementation of the European directives in the matter of money laundering and terrorist financing in the national legislation of each member state and the insufficient cooperation of the various bodies responsible in this direction at the EU level. The specialists of the European Court of Auditors signaled, in 2021, the fact that, in reality, supervision in the field of combating money laundering and terrorist financing is limited, only at the national level, without a sufficient control framework at the EU level (European Court of Auditors, 2021).

But what is the situation in Romania in the field of combating money laundering and terrorist financing? In Romania, the responsibility for coordinating the national system to combat money laundering and terrorist financing is held by N.O.P.C.M.L., established in 1999. Therefore, due to the historical context, generated by the communist-type political regime, which operated in the period 1947-1989, in Romania, until 1999, the need to combat the phenomenon of money laundering and terrorist financing was not discussed. Moreover, in Romania, only since 1999, by Law no. 21/1999 for the prevention and sanctioning of money laundering, the crime of money laundering was recognized and criminalized for the first time, according to the requirements imposed at European level by Directive 91/308/CE, adopted in 1991, to prevent the use of the

financial system for the purpose of money laundering (N.O.P.C.M.L., 2009). Romania's experience in the fight against money laundering began in 1999, when a series of strategic objectives were established, primarily aimed at legislative and institutional reform. Since its establishment, in 1999, the first annual report published by N.O.P.C.M.L. refers to the activity carried out in 2006. Moreover, on the website of this institution (www.onpcsb.ro), the annual activity reports for the period 2006-2021 can be consulted. Since 1999, N.O.P.C.M.L. developed the format of the Report for Suspicious Transactions (STR) and the Report on cash deposit or withdrawal operations that exceed the equivalent in lei of 10,000 euros, which had to be sent, during that period, to N.O.P.C.M.L. primarily by banks. If in 1999, N.O.P.C.M.L. received 91 STRs, in 2000, N.O.P.C.M.L. received and analysed 234 STRs drawn up by banks and state authorities. Based on these reports, following the analyses carried out, N.O.P.C.M.L. prepares internal notes that it sends to the Prosecutor's Office attached to the Supreme Court of Justice (N.O.P.C.M.L., 2009). In 2001, N.O.P.C.M.L. developed its IT system and new IT-based procedures to ensure prompt identification of suspected money laundering activities. In 2001, N.O.P.C.M.L. received 297 STRs, the majority of which, 94.3%, from banks, the rest of the reports being drawn up by currency exchange houses, casinos, notaries and lawyers.

In the period 2002-2008, Romania made efforts to amend the legislation in the field of preventing and combating money laundering due to the need to harmonize national legislation with European legislation, but also with recognized international standards in this field, considering the desire to integrate our country into the EU, which materialized in 2007. In 2002, by Law no. 656/2002 for the prevention and sanctioning of money laundering, which repealed Law no. 21/1999, the scope of reporting entities was expanded by including art dealers, persons with responsibilities in the privatization process, post offices, entities that provide electronic funds transfer services, real estate agents and the State Treasury.

The main activity of N.O.P.C.M.L. is the receipt, processing and analysis of STR from the reporting entities within the Information Analysis and Processing Directorate. According to the report drawn up by N.O.P.C.M.L. in 2009 to mark ten years of activity, it can be noted that, in 2002, there was a significant increase in STR, both quantitatively and qualitatively, as follows: in 2000 compared to 1999, the number of STR increased by 2.25 times, in 2001 compared to 2000 by 1.8 times, and in 2002 compared to 2001 by 1.03 times. In 2002, the majority of STRs, namely 266, were received from the banking sector, and 167 were drawn up by the authorities with financial control or prudential supervision duties and criminal investigation bodies (N.O.P.C.M.L., 2009).

From the annual activity reports prepared by N.O.P.C.M.L., it follows that the main activities aimed at money laundering in Romania are related to: the fuel trade, real estate business, the sale of alcohol, recoverable materials and wood. In 2004, N.O.P.C.M.L. received 1,950 STRs, of which 1,470 from the reporting entities, and following the financial analyses carried out by N.O.P.C.M.L., 501 reports were sent to the Prosecutor's Office attached to the High Court of Cassation and Justice regarding the existence of solid indications of money laundering. Moreover, in 2004, N.O.P.C.M.L. ordered the suspension of 19 operations on which there were suspicions regarding the

intention to launder money obtained illegally on the territory of Romania. In 2005, by Law no. 230/2005, in order to harmonize Romanian legislation with European norms, aspects were inserted regarding the prevention and combating of terrorist financing, which became a new objective of the N.O.P.C.M.L. mission. In 2005, N.O.P.C.M.L. received a significant number of 14,944 STRs, which referred to 6,091,191 cash operations, in lei or foreign currency, whose minimum ceiling is the equivalent in lei of 10,000 euros. Next, the majority of STRs received by N.O.P.C.M.L., 92%, respectively, come from banks and the State Treasury (N.O.P.C.M.L., 2009).

From the annual activity report published by N.O.P.C.M.L. for 2006, a significant increase can be seen in the number of STRs, from 14,944 in 2005 to 71,571 in 2006, which referred to approximately 12.9 million cash operations in lei or foreign currency, the minimum ceiling of which is the lei equivalent of 10,000 euros, most STRs being sent, this time, by notaries (N.O.P.C.M.L., 2006). In 2007, the year of Romania's integration into the EU, N.O.P.C.M.L. concluded two collaboration protocols with the Chamber of Financial Auditors from Romania and the Supervisory Commission of the Private Pension System. In 2007, N.O.P.C.M.L. received 90,123 STRs, with an important increase of 25.92% compared to 2006 (N.O.P.C.M.L., 2007). Since 2008, the quality of STRs received by N.O.P.C.M.L. has increased through the efforts made by this institution to raise the awareness of reporting entities, by participating in seminars and meetings organized by N.O.P.C.M.L. (N.O.P.C.M.L., 2008).

If previously the dynamics of STRs received by N.O.P.C.M.L. in the first years of activity, until the moment of Romania's integration into the EU were presented, in the following, the main developments in combating money laundering in recent years, respectively the period 2019-2021, will be presented. In 2019, the national legislation in the field of combating money laundering and terrorist financing was aligned with European directives through the adoption of Law no. 129/2019, which repealed Law no. 656/2002. From the consultation of the annual activity reports developed by N.O.P.C.M.L. in the period 2019-2021, the following situation can be observed:

Table 1

Year	Total number of SRTs and briefings	Number of cash deposit/withdrawal reports >10,000 euros	Number of external transfer reports > 15,000 euros	Number of cases in which the suspension of the suspicious operation for 48 hours was ordered
2019	15,841	12,736, of which: 47.2% issued by foreign exchange entities and 36% by banks	4,850	430
2020	19,468	17,842, of which: 43.3% issued by foreign exchange entities and 32% by banks	5,980	781
2021	15,368	16,491, of which: 35% issued by banks and 30% by foreign exchange entities	6,283	133

Source: www.onpcsb.ro

Therefore, most STRs were received by N.O.P.C.M.L. in 2020, respectively 19,468 reports, the year in which the most suspected money laundering operations, 781 respectively, were suspended for 48 hours. If in 2019 and 2020, most STRs were drawn up by entities carrying out foreign exchange activities, in 2021 most STRs were drawn up by banks. Also, there is a significant increase in the number of STRs in the period 2019-2021, if we refer to the reality of 1999, the first year of N.O.P.C.M.L.'s activity, when only 91 STRs were received.

4. Conclusions

In Romania, the financial system through credit institutions and fast funds transfer services is the main provider of information in the fight against money laundering and terrorist financing. Cash is the money-laundering tool preferred by financial criminals, and the use of cash in certain circumstances results in the preparation of reports by the reporting entities, established by law, which are subsequently transmitted for analysis, processing and dissemination to the N.O.P.C.M.L. In the 23 years of activity, through the measures taken, N.O.P.C.M.L. has managed to involve the reporting entities and, in recent years, accounting professionals more and more actively, in the difficult and complex process of preventing and combating money laundering and terrorist financing. In the next period, Romania must amend the legislation in the area of money laundering so that all entities, established by European directives, correctly report the real beneficiaries in a central register.

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