

THE PLACE AND THE ROLE OF THE FINANCIAL ACCOUNTING AND AUDIT IN PREVENTING AND FIGHTING MONEY LAUNDERING

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ABSTRACT

One of the major issues of concern to the international community in general and European states, in particular, is the notions of "legal commercial transactions - good faith - licit money versus money laundering - illicit financial resources", all viewed from the perspective of preconditioning and determining the conditions which require the adoption of strategies and general rules - applicable, so that the principles of democratic values, human rights and respect for the cultures and civilizations of the planet are defended and recognized. With regard to the prevention and combating of money laundering, the social character of the company's accounting is manifested in the sense of participation of the professional accountants in the efforts to ensure the public order and the national security.

KEYWORDS: *financial accounting, financial audit, money laundering, users of financial information, financial and accounting information.*

1. INTRODUCTION

Globalization has become a word of the day, bringing together the nations of the world, perhaps realizing the greatest interconnection at states level from the beginning of the era of commerce and information, basically transforming the world into a single city. Between multiple forms of crime, both as a stand-alone offense in some legislations, but also as a form of disguise of proceeds from other crimes, the money-laundering offense is by far the one that generates, the so-called money-laundering phenomenon. In recent years, this phenomenon has gained a global dimension, and it is also linked to the financing of terrorism as a support factor for terrorist groups. Money laundering is a crime, which means it is the result of organized crime efforts. As regards to the prevention and combating of money laundering, the social character of the company's accounting is manifested in the sense of participation of the professional accountants in the efforts to ensure the public order and the national security, and their specific obligations are laid down in legislation on the prevention and sanctioning of money laundering as well as the establishment of measures to prevent and combat terrorism financing, with subsequent amendments and additions.

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2. FINANCIAL ACCOUNTING AND AUDITORS- GENERAL OBLIGATIONS WHEN MONEY LAUNDERING IS CONCERNED

If the relationship between the company's administrators and its owners it is mainly about management, it is no less true that at international level accounting must now meet the needs of a diverse range of users, with its increasingly social character. External users of accounting information are represented by those who finance the enterprise, its trading partners, the social partners, the public power and other external users ¹.

Regarding the prevention and combating of money laundering, the social character of the enterprises accounting, manifests in the sense that professional accountants combine their efforts to ensure the public order and the national security, and their specific obligations are laid down in the Law 656/2002 for the prevention and sanctioning of money laundering and for the establishment of measures to prevent and combat terrorism financing, with subsequent amendments and completions.

The external users of the accounting information in this situation are the authorities of the State with competences in the field, namely the Romanian Financial Intelligence Unit (National Office for Preventing and Combating Money Laundering) and, in case of a criminal investigation, the law enforcement bodies.

At European level, accountants were introduced as Non-Financial Entities and Liberal Professions (abbreviated ENFPL) with reporting obligations, from December 4th, 2001, with the adoption in Brussels of the European Parliament and Council Directive no. 97/2001 / EC amending Council Directive 91/309 / EEC on the prevention of the use of the financial system for the purpose of money laundering, known as the Second European Money Laundering Directive.

The second European Directive is a particularly relevant benchmark for this research, since it explicitly defines accounting entities as reporting entities. This point highlights once again the actuality of the topic addressed in the present research, since at European level these obligations have only been accountable to accountants since 2001, and practice and literature are relatively limited.

Alongside the European Directive, the Revised FATF Recommendations also foresaw the expansion of obligations on the prevention and combating of money laundering and on non-financial professions. This necessity resulted because the practice in the field (reflected in the reports on money laundering typologies performed by the FATF and other specialized international organizations as well as in the activity reports of the National Financial Intelligence Units) indicated the frequent involvement of these categories in complex money laundering circuits, while pointing out that a number of financial information is only accessible to these categories, which makes them a valuable resource in the fight against money laundering and terrorist financing.

On the other hand, this necessity resulted from the evolution of the internal rules of some FATF Member States, as well as from the rules of international law.

¹ L. Feleagă, N. Feleagă, *Contabilitatea financiară - O abordare europeană și internațională*, Publishing House Economică, 2007, pp. 40, 41

The category of non-financial professionals (referred to in the literature as **gatekeepers**) includes a range of different activities and professions not only from the point of view of the legal regulation that governs their activity and the code of conduct, but also from the perspective of the risk of being involved in financial crimes and money laundering.

The glossary attached to the Revised FATF Recommendations specifies that the "*designated businesses and professions*" category includes: casinos (including internet casinos), real estate agencies, precious metal traders, precious stones merchants, lawyers, notaries, other legal professions, accountants etc.

In the case of accountants, it is stated that the rules refer to independent practitioners, partners in accounting firms and employees of companies specialized in the provision of specialized services. It does not refer to accountants employed by companies operating in other areas of activity, nor to accountants working in government agencies.

A particularly important document in defining and explaining the legal obligations binding to accountants in the field of money laundering and money laundering is the FATF Guideline on the Application of Risk Measures, issued in 2008.

The obligations of accountants as reporting entity are found in the Romanian legislation in Law 656/2002, with subsequent amendments and completions. From this perspective, accountants have similar obligations to all the other reporting entities mentioned in art. 10 of the said law. However, there are a number of peculiarities that originated in international documents (FATF Recommendations) and which are reflected as such in the Romanian Law.

Common obligations¹:

- Obligation to report unfulfilled operations suspected of having the purpose of money laundering or terrorist financing to the National Anti-Money Laundering Office (National Office for the Prevention and Control of Money Laundering) - art. 5 paragraph (1) of Law 656/2002, as subsequently amended and supplemented;
- The obligation to report cash operations above the threshold of EUR 15,000 equivalent in any currency - art. 5 paragraph (7) of the Law 656/2002, as subsequently amended and supplemented;
- The obligation to report external transfers above the limit of EUR 15,000 equivalent in any currency - art. 5 paragraph (8) of Law 656/2002, as subsequently amended and supplemented;
- Obligation to Report Suspicious Transactions Art. 6 paragraph (1) - (3) of Law 656/2002, as subsequently amended and supplemented;
- Obligation to provide ONPCSB information upon request - Art. 7 par. (1) - (3) of Law 656/2002, as subsequently amended and supplemented;
- The obligation to apply the measures of knowing the clients and keeping records of art. 13-19 of Law 656/2002, as subsequently amended and supplemented.

¹ Parlour, R., The new FATF forty recommendations, Financial Regulation International, Vol.15. No.5. June 2012, pp. 10-13

Particularities provided by the law and applicable to gatekeepers:

- auditors, natural and legal persons providing tax or accounting advice are not required to report to the Office the information they receive or obtain from one of their clients when determining its legal status or defending or representing it in judicial proceedings or in connection with them, including advising on the opening of court proceedings, according to the law, whether or not that information has been received or obtained before, during or after the conclusion of the proceedings. Article 5 (9) of Law 656/2002, as amended and supplemented;
- in the case of auditors, natural and legal persons providing tax or accounting advice, reporting is made to persons designated by the governing bodies of the liberal professions, who are required to send them to the Office within 3 days of reception. The information shall be forwarded to the Office unaltered. Article 5 paragraph (11) of Law 656/2002, as amended and supplemented;
- in the case of accountants, part of the obligations stipulated by law are attributed to the management (and representation) structures of the profession, according to art. 10 lit. e) and f) of Law 656/2002, as subsequently amended and supplemented. Thus, these structures (CECCAR) will designate one or more persons responsible for the application of the said law, the names of which will be communicated to the Office, specifying the nature and limits of the responsibilities entrusted, and will establish appropriate policies and procedures for knowledge of accounting, reporting, keeping of secondary or operative records, internal control, risk assessment and management, compliance management and communication, to prevent suspicious operations of money laundering or terrorist financing by ensuring appropriate training for employees.

Thus, we can observe a fundamental difference in the compliance of accountants (alongside other professions mentioned by law) with other rapporteurs, in that the obligations to designate a person with law enforcement responsibilities, to establish a set of rules and procedures for customer knowledge and risk management of AML / CFT, as well as professional training of its own staff, do not belong to each accounting consulting cabinet, but to the structures of representation of the profession. This is absolutely natural because the vast majority of the accounting consultancy offices are extremely small (2-3 persons) and they do not have the necessary resources to implement an effective risk management system.

In the case of Romania, the structure of representing the profession with obligations under Law 656/2002 is the Body of Expert and Authorized Accountants of Romania.

At CECCAR level, persons with responsibilities in the enforcement of the AML / CFT Law and cooperate with ONPCSB are designated by order of the President of the Corps. Also, the Presidents of the subsidiaries designates by decision, one or more of the members of the subsidiary to be responsible for the enforcement of the legal provisions on the prevention and combating of money laundering. At CECCAR level, the designated persons will mainly follow1:

¹ Guide to Preventing and Combating Money Laundering for Professional Accountants - Revised 2nd Edition - CECCAR Publishing House, Bucharest, 2007, pp. 2

- to ensure the activity of accountants in accordance with Romanian legislation, body rules and international regulations in the field;
- to centralize information on operations or transactions that fall under the law;
- to keep a relationship with ONPCSB;
- to be concerned about raising the professional level of staff by organizing training sessions.

Thus, in the context of the special situation in relation to the AML / CFT Law of the accountants, as well as the relative novelty of their inclusion among the reporting entities, this paper aims to explain these regulations and to propose an efficient and pertinent system of applying the legal provisions in the field, which on the one hand ensure the fulfillment of the compliance requirements and on the other hand, to not impede the current activity of the professional accountants.

At the international level and at the highest level of competence, the risk of money laundering (involuntary) of professional accountants are highlighted in the FATF1 documents, which consider that some of the functions performed by accountants could be of great help to a potential launderer of money.

In terms of tax and financial advice, large-value offenders can post to people who are interested in minimizing their tax debts or placing their assets in different jurisdictions (some offshore) to avoid future payment obligations to the State budget. In fact, behind a seemingly justified interest in legal minimization of taxes, one can hide the attempt to outsource unlawfully obtained money and clear the money trail².

Creating companies or other complex legal arrangements (trusts, company chains associated with other companies to lose track of individuals acting from the shadow) can also present a number of vulnerabilities in the sense that these structures could be used for hiding or disguising the links between the outcome of the offense (money) and the offender. They can also serve to conceal the true owner of the companies (and in the case of the assets, the wealth they hold), in the conditions in which a long chain of companies is involved in the association relations, and the beneficial person can be successfully camouflaged behind an entity incorporated into an offshore³.

The sale and purchase of real estate, a phenomenon specific to Romania in recent years, may serve either to justify the transfer of illegal funds (the placement phase) or may represent the final investment of the proceeds of the offense (after having undergone the laundering process) in the integration phase. Real estate transactions have been frequently used in money laundering schemes in Romania and not only because of the extremely fluctuating nature of prices in recent years. Thus, amounts of money resulting from illicit activities could be either hidden or justified (depending on the moment of interest).

Making financial transactions by accountants on behalf of their clients (cash deposits or cash withdrawals from corporate bank accounts, foreign exchange operations, issue or

¹ FATF Guideline Based on Risk Criteria for the Occupational Accounting Published in 2008 – http://www.fatf-gafi.org/data_oecd/19/4041091859.pdf

² Cochrane P., Safe bet, the risk in online gambling, Money Laundering Bulletin, No. 212 April 2014, pp. 16-18

³ Bassi U., The hidden economy, 2013, STEP Journal, Vol. 21. No. 8, October 2013, pp. 64-65

receipt of checks, securities sale / purchase, international fund transfers etc.) undoubtedly constitutes a risk of money laundering when the client or another person controlling it has this intention.

By addressing in concrete terms the legal obligations provided by the Romanian law relating to the money-laundering profession, they can be classified into three categories ¹:

- Obligations relating to the **recognition of the risk of money laundering / financing terrorism**;
- Obligations relating **to customer knowledge and record keeping**;
- **Reporting** obligations
 - Automatic, based on a value benchmark;
 - Based on anomaly indexes (without value limit);
 - As a response to a direct request from UIF.

3. THE IMPORTANCE OF FINANCIAL-ACCOUNTING AUDIT IN IDENTIFYING CRIMINAL ACTIVITIES IN THE ECONOMIC FIELD

According to literature², „audit is the process by legally empowered individuals or legal entities called auditors that analyze and evaluate professionally information about a particular entity, using specific techniques and procedures to obtain evidence called audit evidence, on the basis of which it draws up the audit report and a responsible and independent opinion”.

This implies the use of assessment criteria resulting from legal regulations or good practice that is unanimously recognized in the field in which the audited entity performs.

The audit process is conducted on the basis of national or international standards, the auditors being persons who acquire this quality under the conditions strictly regulated by the legislation in force.

3.1. Objectives of financial-accounting audit and evidence collection techniques

The accounting information system, due to its functions, is the main source of information for the financial and accounting audit and at the same time it is one of its main objectives.

Regardless of the methods, means and techniques used for data processing, the audit has *the task of pursuing two target groups*³:

1. the reality, sincerity and integrity of the information provided by the economic record;

¹ Melinescu I., Talianu I., *Investigațiile financiare în domeniul spălării banilor*, Publishing House Imprimeria Națională, 2004

² M. Boulescu, *Fundamentele auditului*, Publishing House Didactică și Pedagogică, Bucharest, 2000, pp. 11-12

³ Munteanu V. (coord.), *Control și audit financiar la întreprinderi și instituții publice*, Publishing House Universul Juridic, Bucharest, 2015

2. the legality, necessity and economy of the recorded economic and financial operations as well as the integrity of the patrimony of the economic operator or of the respective public institution;

By following these two target groups, the financial accounting audit may be confronted with the following situations ¹:

- (a) *documents and records are properly drawn up, kept up to date and comply with the requirements of legal regulations and the decisions of boards of directors and comprise only real, accurate and exact transactions;*
- (b) *the irregularities found in the preparation, circulation and processing of documents and in the keeping of the accounting registers are only of a formal nature, such as: the documents contain inaccurate corrections, the records are not kept up to date, correspondence between the accounts is not observed, the correspondence between the operative records, analytical accounting and synthetic accounting is not insured etc.*
- (c) *the irregularities found in the organization and management of the accounting determines, favors or masks the cases of bad management, tax evasion, subterfuge, distortion of results etc.*

Documentary verification identifies the nature of the deficiencies (form or substance) and measures are taken to prevent and eliminate them and / or to punish the culprits, as the case may be.

In order to express its opinion on the assurance of fairness through financial statements, the auditor is required to ensure that the following criteria and objectives have been met:

The criterion of completeness and integrity of records (completeness)

This criterion requires that all transactions occurring in an enterprise be reflected in appropriate supporting documents and be recorded in the accounts without omission and without some of them being accounted for multiple times.

Criterion of recordings.

All the information contained in the annual accounts must be justifiable and verifiable. Then, all patrimonial items reflected in the accounting must be consistent with those identified physically by inventory or other processes (third-party confirmations, laboratory tests, etc.). Revenues and expenses as well as the assets and liabilities presented in the annual accounts must be real and concern the enterprise.

The criterion of correct bookkeeping and correct presentation through annual accounts implies respecting the principle of exercise independence. As a result, operations must be recorded in the appropriate periods, and through the regularization work, the correct delimitation over the period of expenditure and revenue management is ensured by: provisioning, reversal of provisions, distribution of price differences over expenses and inventories, exchange rate differences related to foreign currency denominated assets,

¹ Feleagă L., Feleagă N., Contabilitatea financiară - O abordare europeană și internațională, Publishing House Economică, 2007

translation differences related to foreign currency receivables and payables, prepaid expenses and revenues recorded in the balance sheet etc.¹.

A fair assessment makes all property items and all economic and financial operations evaluated in accordance with the accounting rules and principles. Also, all the calculations underlying the records in the accounting must be correct.

All economic and financial operations should be recorded in the appropriate accounts with respect to the correspondence between the accounts established by the rules for the implementation of the chart of accounts. Failure to comply with these correspondences may help to mask fraud, unlawful compensation, distortion of balance sheet items or indicators such as: assets, stocks, expenses, results of the year, tax obligations, turnover etc.

3.2. Risks, fraud and possible errors, specific to financial accounting audit

The specialized literature reveals that the amount of audit evidence required to prove compliance with a given assessment criterion is always commensurate with the risk that the auditor would give an opinion on compliance with the criterion, but in reality there is a strong departure from (deletion) to that criterion, which will be covered by the importance for users of the audit report. The risk in question is called **global audit risk**.

Therefore, the audit cannot provide absolute certainty, but it is necessary to limit to a low and acceptable level the overall audit risk, the auditor's ability to formulate an inaccurate opinion or conclusion in an audit report. In this regard, it will be taken into account that in its turn the opinion of the audit will be inaccurate and misleading to its user².

Since it is not practical to recover all operations in a set of financial statements, the auditor must accept a certain level of overall audit risk.

NOTE: Given the users' expectations of financial statements made by public bodies, particularly with regard to legality and regularity, only very low levels of overall audit risk are used and recommended, about 1-2%.

Components of audit risk

a) *The inherent or essential risk is*, in general, the risk of material misstatement (meaningful) or of erroneous independent statements. Inherent risk in fact amounts to the possibility that a balance of an account or a category of financial operations may contain erroneous information that could be individually significant or when it is aggregated with erroneous information from other balances or financial transactions as a result of the absence of effective internal controls. The inherent risk depends on the nature of the entity

¹ Olteanu I., Bistriceanu G., *Evaziunea fiscală. Metode și tehnici de combatere a evaziunii fiscale*, Publishing House ASE, Bucharest, 2005

² An audit report misleads if: the report mistakenly states that there was a non-compliance with the evaluation criteria. For example, it is stated that financial statements are misleading when, in reality, this is not the case or it is stated that the entity's management has not made every effort to achieve the objectives; when, in reality, the objectives have been achieved; it is omitted by report the indication of the limits of the scope of the audit and that it may influence the interpretation of the results

under audit, the work it carries out, and the susceptibility of activity-related errors. In order to estimate the inherent risk, the auditor performs an assessment of the environment (context) in which the entity operates and an assessment of the characteristics of the aspect audited.

b) *The control risk* is the risk that the accounting and control systems of the audited entity do not prevent or detect in a timely manner a misstatement or an affirmation that could materialize either individually or together with errors in other balances; or categories of operations.

Fraud and error in financial auditing

The audit should take into account the potential impact of a possible fraud on financial information and consider amendments to the audit plan and the use of additional audit procedures.

The auditor should distinguish between alleged fraud and proven fraud. An *alleged fraud* is considered to be those circumstances that suggest fraudulent action and that come to the attention of the auditor during an audit. This approach reinforces the principle that only the tribunal or equivalent jurisdiction is empowered to decide whether a particular action or operation is a *proven fraud*. The use of additional procedures gives the possibility to confirm or refute suspicion of fraud. Sometimes, however, this refutation or confirmation cannot be achieved and the possible impact of this uncertainty on the financial statements (information) must be considered.

4. CASE STUDY: RUNNING AN EXTERNAL AUDIT TO DETECT FINANCIAL FRAUD IN PUBLIC PROCUREMENT

In this subchapter we will present the way in which an audit action is carried out on the detection of financial fraud in the field of public procurement. The exemplary institution is a Food Safety Direction (DSA). The exemplified individuals are hypothetical.

Intermediate inspection report to DSA

I, the undersigned R.B., acting as financial auditor in the Romanian Court of Accounts, the Chamber of Accounts of "X" County, under Law no. 94/1992, modified and completed by Law no. 263/2010 and Delegation no., I have audited the execution account and the balance sheet for year N at the Food Safety Office (DSA).

On the same occasion I checked some issues included in the DSA, under the signature of the Executive Director, - dr.vet. N.F., registered at our institution under no., as well as in the address no. of the National Control Authority, submitted to the Court of Accounts of Romania and registered under no.

Mainly, through the above-mentioned addresses, a verification is required to take into account the objective of the control "Regularity of Public Procurement", regarding the endowment of the institution with laboratory equipment during the period N – (N+1)

Our control took into account those benchmarks worth more than 25,000 u.m., which were the subject of acquisitions made by DSA in the respective financial years.

During the audited period executive management was provided by:

- ✓ executive manager;
- ✓ Economic Deputy Executive Director;

DSA is a specialized public institution with legal personality, subordinated to ANSA, financed by state budget allocations and extra budgetary incomes, according to Government Ordinance no. 42/2004 regarding the organization of the sanitary-veterinary and food safety activity, with the subsequent modifications and completions, approved by Law no. 215/2004, as subsequently amended and supplemented. The DSVSA Executive Director is a tertiary authorizing officer for budget appropriations.

As a result of the inspection, there were found facts that caused damages, irregularities and financial deviations for which there are indications that they were committed in violation of the law. The commission of these facts led to the provision to several private companies of amounts coming from the budget of the institution in the context of carrying out non-compliant tendering procedures.

Thus:

1. The audited institution did not prepare the annual procurement program to be carried out during the budget year.

According to the provisions of art. 3 of the Government Decision no. 925/2006 approving the implementing rules for the provisions regarding the awarding of public procurement contracts in the Government Emergency Ordinance no. 34/2006 on the award of public procurement contracts, public works concession contracts and service concession contracts, as subsequently amended and supplemented, according to which:

Instead of the above-mentioned document, laboratory equipment required by LSVS was submitted for inspection, based on the requests submitted by each section. We note that neither the "Fundamental Notes on the necessity and the opportunity to make the expenditures assimilated to investments" have been elaborated, which leads to the impossibility of checking the compliance with the provisions of Law no. 270 of October 15, 2013 for amending and completing the Law no. 500/2002 on public finance art. 43 par. (1).

Therefore, the person charged with the exercise of the preventive financial control within the unit is obliged to check - when submitting the public procurement contract to the preventive financial control - whether the public procurement is foreseen in the Annual Procurement Program, according to the provisions of MFP Order no. 923 / 11.07.2014 - for the approval of the General Methodological Norms regarding the exercise of the preventive financial control and of the Specific Code of professional norms for the persons performing the own preventive financial control activity, could not fully fulfill its specific tasks.

Although the internal audit staff highlighted this issue in the periodic reports, the institution's authorizing officer did not order the elaboration of a procedure for the preparation of the annual public procurement program in accordance with the provisions of GEO no. 34/2006 on public procurement, as subsequently amended and supplemented, and Government Decision no. 925/2006 approving the implementing rules for the

provisions regarding the awarding of public procurement contracts in the Government Emergency Ordinance no. 34/2006 on the award of public procurement contracts, public works concession contracts and services concession contracts, as subsequently amended and supplemented.

Also, the provisions of MFP Order no. 923 / 11.07.2014 - for the approval of the General Methodological Norms on the Exercise of Preventive Financial Control and the Specific Code of Professional Norms for the Persons Performing the Activity of Own Preventive Financial Control ("Documents on Operations Affecting Public Funds and / or Public Heritage will be accompanied by the opinions of the specialized departments, the substantiation notes, the documents and / or supporting documents and, where appropriate, a "Proposal for an Expense" and / or an "Individual / Global Commitment" of Annex 1 and of Annex 2 respectively to the Methodological Norms approved by the Order of the Minister of Public Finance No 1792/2002 as amended by OMFP 547/2009") were neglected.

The production of the deviation we were referring to was possible because the DSA Executive Director and the Deputy Executive Director during the period to which we refer did not take into account the provisions of Law no. 500/2002 art. 22 par. (2), as amended by Law no. 270/2013 on public finances, as subsequently amended and supplemented, according to which:

Creditors are responsible for:

- a) hiring, liquidation and authorization of expenditures within the limits of commitment credits and budget credits allocated and approved according to the provisions of art. 21;
- b) achieving revenue;
- c) engaging and using expenditure within the limits of commitment appropriations and budget appropriations on the basis of sound financial management;
- d) the integrity of the assets entrusted to the institution they lead;
- e) organizing and keeping up-to-date accounting and timely presentation of the financial statements on the status of the patrimony managed, and the execution of the budget;
- f) organizing the monitoring system for the public procurement program and the program of public investment works;
- g) organizing program listings, including related indicators;
- h) organizing and updating property records as required by law.

2. Division of public procurement contracts to avoid the application of open or restricted bidding procedures.

There are two public procurement contracts, namely contract no. for the acquisition of two units of an automatic colony counting unit worth 900,974 u.m. and contract no. for the acquisition of two units of data monitoring and processing system, amounting to 1,552,065 u.m., both contracts closed with the same supplier

Through its technical and constructive nature, the two devices (the automatic colony count and the data monitoring and processing system) do not work separately but only together and they dependent on each other.

However, the CEO of the DSA and the Deputy CEO, who were in office during the period to which we refer, have signed the above-mentioned contracts (which we enclose as photocopies).

3. Making payments in installments and / or in full before receiving the machines / equipment.

Payments have been made in installments and / or in full prior to the reception of the machines / equipment in the facility, making available to economic agents (future suppliers) sums of the institution's budget resources for periods ranging from one month to 12 months.

The non-realized benefits, calculated by us until the date of receipt of the received documents, are 159.842 u.m.

Please note that there is no legal / contractual basis for these payments. To this it is added that in some cases, the holding of the auction precedes the opening of the financing. However, the DSVSA Executive Director and Deputy Executive Director, who were in office during the period to which we refer, have validated the operations in question.

4. Failure to comply with Government Emergency Ordinance no. 34/2006, with the subsequent amendments and completions and of the Government Decision no. 925/2006 approving the implementing rules for the provisions regarding the awarding of public procurement contracts in the Government Emergency Ordinance no. 34/2006 on the awarding of public procurement contracts, public works concession contracts and service concession contracts, with the subsequent modifications and completions - regarding the purchase of Intranet system implementation services / Management program / Web page setup ", accepting the extra procedural offer SC "Z" SA Bucharest, sent to the DSVSA Executive Director via ANSA Bucharest (Higher Body).

The three invoices issued subsequently by the relevant provider and paid by DSA totals 160.650 lei.

In addition to the fact that this illegal acquisition method did not allow the choice of an optimal price / quality offer, the decision to invest in this type of equipment did not take into account the basic criteria regarding utility, economy, efficiency and the effectiveness of the operation as such. For example, the financial management program has never been used after its implementation.

5. Failure to comply with legal requirements for documents recorded in accounting

For some procurement cases, we note the lack of visas, approvals and other legal signatures for supporting documents requested by OMFP no. 1792/2002 modified and completed by OMFP 547/2009. We also found payments that were accepted and registered in accounting in violation of OMFP provisions no. 1792/2002, with the

subsequent modifications and completions for the approval of the Methodological Norms regarding the hiring, liquidation, authorization and payment of the expenses of the public institutions and the provisions of the OMFP no. 923 / 11.07.2014, amended and completed, for the approval of the General Methodological Norms regarding the exercise of preventive financial control.

The provisions of art. 52 par. (5) of the Law no. 500/2002 on public finances, as subsequently amended and supplemented, which stipulates that: "The payment instruments must be accompanied by the payment order authorized by the credit officer, to which are attached the documents regarding the quantitative and qualitative reception of the goods / services / works, as appropriate, in accordance with the provisions of the legal commitments entered into, certifying the payment amounts, were violated".

The payment instruments shall be signed by the accounting officer and the head of the financial-accounting department, in compliance with the provisions of art. 14 of the Law no. 500/2002 on public finances, as subsequently amended and supplemented, stating:

"(1) Budget expenditures have a precise and limited destination and are determined by the authorizations contained in specific laws and annual budget laws.

(2) No expenditure may be entered in the budgets provided for in art. 1 par. (2), nor engaged or made out of these budgets, unless there is a legal basis for that expense.

(3) No public spending can be engaged, ordained, and paid if it is not approved by law and has no budgetary provisions".

The financial accounting department recorded in the accounts the entry of the fixed asset on the basis of the initial partial invoice (which was subsequently canceled) and of the NIR - the receipt and differences note, and not according to the minutes of receipt and the tax invoice based on the legal commitment.

Payments of intangible assets suppliers were made without having at that time the documents stating the goods delivered (fiscal code 14-4-10 / A or invoice code 14-4-10 / A and the receipt code 14-2-5).

To the violated legal regulations, indicated above, the provisions of the Accounting Act that has not been observed by the deputy executive director. G.B. - in function during the period to which we refer, to whom the most obligations deriving from its application (Law 82/1991), updated by GEO no. 37/2011 and Law 187/2012, are added.

This Audit Report was written today in three copies, and was registered under no. to DSA. By signing it, it is recognized the return of the documents made available to the auditing body.

Financial auditor,

Executive manager,

B. Proposals to capitalize the audit performed at DSA

NOTE ON THE VALUATION OF THE FINDINGS - FOLLOWING THE DSA AUDIT CONTROL (financial exercises N – N+1)

I, the undersigned R.B, having the function of financial auditor, conducted the auditing of the execution account and the balance sheet for year N at the Food Safety Office from 14 to 30 September 2017.

As our institution has been notified several times about the perpetrating illegal activities regarding the investment activity in this institution, we carried out audits focused on the audit objective "Regularity of public procurement", regarding the endowment of the institution with laboratory equipment, during the period N – N+1.

Our control has taken into account those benchmarks worth more than 25,000 u.m, which were the subject of the purchases made by DSVSA in the respective financial years. As a result of the control, there were found facts that caused damages, irregularities and financial deviations for which there are indications that they were committed in violation of the law.

Committing these acts led to the provision of several private companies (headquartered in Bucharest) of amounts due from the institution's budget performance of irregular bidding procedures and financial accounting regulatory framework abuse.

Thus:

1. The institution that was controlled did not elaborate the annual public procurement program and recourse to the splitting of public procurement contracts to avoid open or restricted bidding procedures;
2. Payments were made in installments and / or in full before (up to 12 months) by the reception of the machines / equipment (unrealized benefits, which totals 9,842 lei and are attributable to the authorizing officer);
3. The provisions of the Emergency Ordinance no. 34/2006 on the granting public procurement contracts, public works concession contracts and services concession contracts, with subsequent amendments and completions - regarding the purchase of services "Intranet system implementation / Managing program / Configuration of web page"
4. The legal conditions (derived from the application of Law 82/1991 on Accounting and Law 500/2002 on Public Finances, both with subsequent amendments and completions) regarding the documents recorded in the accounting, including their non-compliance with the CFP visa, have not been complied with;
5. The existence of inconsistencies between the data included in the documents on the acquisition of fixed assets in the institution's patrimony.

Because, one of this infringements of financial accounting legislation:

1. Was observed during previous verifications and
2. Have been the basis for favoring several private companies that have been given financial means in advance;

Then:

- The contravention sanctions applied by us in the past did not have the expected effect
- Payments (on costly laboratory equipment) mainly targeted the same trading companies with headquarters in Bucharest, which participated in most of the selection procedures organized by the DSA in years N and N + 1
- No steps have been taken to remedy the situation,

We suggest:

1. Reporting to criminal investigating bodies to decide on the extension of the investigation, including the people in the supplying companies, and establishing possible criminal liability, with some indications of committing acts of abuse in the service to the detriment of the public interest by the Executive Director of DSA, Executive Director - and the deputy executive director
2. Disposition of the current DSA's management of the measure of verification and calculation of any unused benefits for all situations where amounts of money have been made available in advance to suppliers, up to the prescription period, by selecting for control only those transactions that are over 25 000 u.m.

We are of the opinion that the transmission of documents to the bodies responsible for verifying certain issues at the level of the companies issuing the invoices indicated in the annexes - because we don't have the legal competence - is not an efficient measure, the previous request being solved only with the finding of invoices to suppliers and tax obligations.

Therefore, in order to ascertain the level of the commercial margins, favored by the unfair tender procedures for deliveries to the DSA, and confirmation of the abusive provision of (in advance, without legal contracts, etc.) amounts coming from the public budget, we consider it more appropriate to issue the acts drawn up in the course of this action to the police authorities responsible for investigating and combating financial fraud.

NOTE was completed on, in one copy, and underlies the initiation of criminal prosecution, the persons responsible for causing the damage referred to in the above report.

Financial auditor,

5. CONCLUSIONS

The money laundering process takes place through institutions and legal procedures that have been set up to address market needs that are very different from those sought by those who recycle fraudulent amounts. The confidentiality of bank transactions does not serve to ensure a citizen's right to privacy but to escape the investigation of dubious funds that individuals hold. The advantages of free international capital flow are not used to increase the efficiency and effectiveness of fair trade operations but to transfer large sums of money from states or areas with strict banking supervision to more permissive or less prepared places to detect and counteract fraudulent activities. Money laundering, by corrupting the normal use of some institutions, tends to contaminate the system as a whole, using abnormal instruments to serve market relations.

Transition economies have to take rigorous measures to combat crime, specific premises that produce dirty money: tax evasion, bank fraud, corruption, fraudulent privatizations,

smuggling, various financial deceitfulness. At the same time, specific measures are also required to combat the placement of sums resulting from these crimes, thus money laundering.

When dealing with money laundering in relation to company accounting, obviously the **relevance and credibility** of the accounting information reflected in the financial statements is deeply affected. Accounting creativity can be caused by gaps in accounting rules, or sometimes professional accountants are focused on some subjective professional judgment even by the provisions of accounting rules. However, when accounting information is knowingly directed towards objectives contrary to lawful commercial practice, we are dealing with dramatic manipulation of information beyond the limits permitted by law. In this case, in the context of national anti-money laundering and anti-money laundering legislation, the role of an independent, good-faith accountant is to identify anomalies and to raise suspicions that would lead to the detection and punishment of accounting practices that facilitate money laundering.

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