

ORGANIZATION OF THE STATE FINANCIAL CONTROL IN PUBLIC INSTITUTIONS

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Abstract: *The organization of state financial control has been established by separate legal provisions for both governmental and legislative activities. The general framework for the organization and exercise of financial control by the governmental structures is approved by the Law no. 30/1991 on the organization and functioning of the state financial control and the Financial Guard, the Government Ordinance no.119 / 1999 on internal control and preventive financial control, the Law no. 672 / 2002 on public internal audit, the Government Regulation no. 208 / 2005 on the organization and functioning of the Ministry of Public Finance and the National Agency for Fiscal Administration, the Government Emergency Ordinance no.91 / 2003 on the organization of the Financial Guard and the Government Ordinance no.92 / 2003 regarding the Tax Procedure Code.*

Key words: financial control, globalization, fiscal code, crime, the National Agency for Fiscal Administration.

JEL Classification Codes: M41, M48.

1. ORGANIZATION OF THE STATE FINANCIAL CONTROL IN PUBLIC INSTITUTIONS

The organization of state financial control was established by separate legal provisions for both the governmental activity and the activity carried out in the field of activity of the legislature.

The general framework for the organization and exercise of financial control by the governmental structures is approved by the Law no. 30/1991 on the organization and functioning of the state financial control and the Financial Guard, the Government Ordinance no. 119 / 1999 on internal control and preventive financial control, the Law no. 672 / 2002 on public internal audit, the Government Regulation no.208 / 2005 on the organization and functioning of the Ministry of Public Finance and the National Agency for Fiscal Administration, the Government Emergency Ordinance no. 91/2003 on the organization of the Financial Guard and the Government Ordinance no. 92/2003 regarding the Tax Procedure Code.

A. Organization of financial control within the scope of the executive

Within the scope of the executive, the financial-accounting control activity is organized on distinct structures, which operate both within the Ministry of Public Finance, as a central body with both financial and control responsibilities, and the Government itself

The financial control activity carried out by the Ministry of Public Finance is organized in distinct structures such as:

➤ National Agency for Fiscal Administration, through the Tax Control Department and Tax Investigation Directorate;



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- General Directorate of Regulations, Administration and Control of State Assets;
- General Directorate of Preventive Financial Control;
- National Customs Authority.

A.1. National Agency for Fiscal Administration

It is the specialized structure of the Ministry of Public Finance that implements its policy on financial and fiscal control in relation to (www.anaf.ro):

- compliance by taxpayers with the legal provisions regarding the establishment, highlighting and full and timely payment of tax liabilities to the state budget;
- lawfully organization and development of economic activities producing taxable income;
- the organization and management of taxpayers' accounting records;
- identifying and combating tax evasion;
- implementing and enforcing regulations in the financial and accounting field.

Fiscal control activity carried out by the National Agency for Fiscal Administration is regulated by Government Ordinance no. 92/2003 regarding the Fiscal Procedure Code, republished.

A.2. General Directorate of Regulations, Administration and Control of State Assets

It is the specialized structure of the Ministry of Public Finance that implements its policy on financial control regarding (www.aaas.gov.ro):

- the management of public and private property of the state that are under the administration of economic agents;
- the method of concession and lease of the public and private property that are under the administration of State Domains Agency;
- the approval of subsidies requested by the economic agents and the control of the use of subsidies granted from the state budget;
- the economic and financial activity of companies that reported losses according to the balance sheet;
- the fulfillment by economic agents of the obligations resulted from the implementation of the external credits guaranteed by state;
- calculation and payment of the tax for prospecting, exploration and exploitation of mineral resources and mining and oil royalties to the state budget.

A.3. General Directorate of Preventive Financial Control

It is the organizational structure used by the Ministry of Public Finance to implement the activity of coordination and regulation of the preventive financial control for all public entities (Government Regulation No. 208/2005).

The Ministry of Public Finance organizes through this direction the preventive financial control for its own operations and for the operations related to the state treasury budget, the public debt, its own operations and other specific operations of this ministry, as well as the delegated preventive financial control.

A.4. National Customs Authority

The National Customs Authority is organized and operates under the authority of the Ministry of Public Finance. Among other attributions conferred by the law, it has attributions in the field of fiscal and financial control, of which we enumerate (www.efin.ro):

- implementing the Government's strategy and program in the customs field;
- preventing and combating illicit trafficking in drugs, weapons, explosives, objects of national cultural heritage and money laundering through customs operations
- verifying the declaration of rights due to the state budget by either the holder of customs operation or the customs agent;
- collecting and transferring these rights to the state budget;

➤ the pursuit, in the customs field, of a subsequent control at the headquarters of the economic agents, on the foreign trade operations, for a period of 5 years after the release of the goods (Government Regulation no. 164/2004).

B. National Government Control Authority

Within the scope of the executive, financial control is exercised, in addition to the Ministry of Public Finance, by Government Control Department.

B.1. National Government Control Authority

It is the structure specialized in financial-accounting control under the management of the National Control Authority.

The main attributions of the Government Control Department for the implementation of which is required the use of procedures and techniques specific for financial control are (www.control.gov.ro):

- the control of the state budget and local budgets execution with a view to drawing up the report, the legality of budget allocations and the way they are used, while respecting the principles of effectiveness and efficiency;
- the control of the balance of receipts and external payments execution, the use of state loans or government guaranteed, the size and causes of public debt;
- the control of the use of material and financial resources by central and local authorities of the state, the integrity of its assets in the country and abroad, including that owned by joint ventures;
- controlling the use of government subsidies, public government funds, and the achievement of state-funded investment objectives.

In order to carry out the control tasks, it may request the collaboration with specialists of the Ministry of Public Finance and the Ministry of Administration and Interior, as well as banks with state capital or other specialists from the state institutions.

2. LEGAL ASPECTS OF FRAUD AT INTERNATIONAL LEVEL

Fiscal evasion is the logical result of the defects and inadequacies of an imperfect legislation, of its defective methods of enforcement, as well as of the failure of the legislator to overcome this problem, whose excessive taxation, for example, may be equally as guilty as those whom it provokes to evasion.

According to Vasile Bîrle (2003) „In the modern world, tax evasion has become a phenomenon, and in many countries a scourge that pests the economy, destroying it from the roots, suffocating it without allowing any hope”.

We believe that, regardless of the way in which this phenomenon is defined, tax evasion represents, ultimately, the failure of the taxpayers to pay their taxes due to malevolence.

The most common method of legal tax evasion is the existence of tax havens. The term „tax heaven” tends to be replaced today with that of international financial center or financial paradise due to the increasing benefits granted to foreign investors in several fields of activity not just the fiscal one. The purpose of tax havens is to attract foreign investors, who will invest tremendous financial resources in certain businesses, since they benefit from a wide range of facilities offered by these states that will bring substantial benefits to the country, thus ensuring its development.

According to the opinion of C. Corduneanu, a tax haven is "an instrument for international tax evasion by taxpayers seeking a more favorable tax treatment" in this case a lower tax rate.

From the perspective of author Grigore Lăcrița (2006), a tax haven is a state or a geographical area with almost no tax regime and a high degree of fiscal discretion or an area where tax obligations can be fully and legally eliminated and are almost impossible to be controlled.

3. CROSS-BORDER CRIMINALITY IN THE CONTEXT OF CRIMINALITY GLOBALIZATION

Criminality has become a topic of political concern for the states of the world and especially for the European states. Governments are now forced to cope not only with major national criminality but also with cross-border crime in full progress.

This new type of crime forces the traditional police and justice systems to discover the most appropriate methods for delinquency control. At the heart of cooperation between police forces in Europe, the challenge was to prepare a joint institutional response to the terrorist threat and the development of cross-border crime.

National mafias and terrorist groups have implemented, in front of everyone, the principles of free movement in Europe. In a sense the cross-border crime far exceeds the alarming proportions of micro- and macro-social effects. It is difficult to make a clear record of crime as, just like any illegal act, only the tip of the iceberg can be seen, as it is stated: "By definition, illicit practices seek to escape the eye of society. Their frequency and the characteristics of their evolutions do not allow any reliable quantitative and exhaustive estimation "(Sullerot, 1989).

Criminologists, however, have long been interested in various crime statistics, despite the many existing objections that official statistics can not provide a valid idea of real criminality (Cusson, 1990).

There are different ways of making a census of the level of crime in general. On the other hand, there are very few statistics on cross-border criminality, because each state incriminates crimes according to national laws.

Globalization has multiple meanings and it signifies for various segments of public opinion the internationalization of production and exchange, the triumph of financial markets and free trade, the era of international information and communication networks, the effect of transnational cultural industries, the supposed "victory" of multinationals over governments, or even the loss of national sovereignty (Cardellier, 2001)

Globalization is manifested not only in the economic field, but also in the political and social sphere, so we can say that international politics is not determined only by states nowadays, since power can and is exercised both by governments and non-state authorities.

Globalization is the term used to describe a multicultural process that results in events taking place in a part of the globe that have a wider repercussion on societies and create problems in other geographic areas. There has not yet been elaborated a definition of globalization in a universally accepted form, and perhaps not a definitive one. The reason stems from the fact that globalization underpins a multitude of complex processes with variable dynamics reaching different areas of a society. It can be a phenomenon, an ideology, a strategy, or all of them together.

One of the most worrying forms of cross-border crime is organized crime. This is, according to the United Nations, "one of the most fearsome challenges the world collectivity will encounter." Consequently, the latter tends to internationalize by making the fight even harder. By organized crime, public opinion generally understands internationally structured banditry (European Parliament, 1994).

The most popular organizations are the Sicilian Mafia (Maruzzo, 1997), Neapolitan Camorra, Chinese Triads, Japanese Yakuza, Colombian and Mexican drug cartels, but there are many more in Russia and Eastern Europe, with no judicial definition of this phenomenon (Marion and Manzanares, 1996)

Organized crime has its origins in associations, cartels and criminal gangs and cover-up companies, with a priority focus on crimes, exploitation of weaknesses for financial gain and profit or on gaining influence and power through legal and illegal means.

The methods used are: violence, elimination, organized trafficking, extortion, corruption, manipulation, fraud, money laundering, and the injured values are: life liberty, physical integrity, public security, democratic freedoms.

4. CONCLUSIONS

For many analysts, tax evasion is one of the diseases of modern societies, along with the underground economy, corruption and others, and for other specialists, few in number, it is an attitude, a manifestation of democracy. As any complex phenomenon, tax evasion can not easily be explained and eradicated

In the judicial literature, tax evasion is considered to be the logical result of defects and inaccuracies of imperfect tax legislation, defective methods to which this legislation is applied, as well as the improvidence and incomprehension of the legislator under the conditions of excessive taxation that is as guilty as those who commit the evasion. Regardless of how this phenomenon was defined, tax evasion is, in fact, the taxpayer's failure to comply with tax obligations established by law. Irrespective of the method adopted at the macroeconomic level, tax evasion produces major imbalances, with a decisive impact on the economy of any country. The importance of reducing tax evasion derives primarily from the fact that public revenues consist of taxes paid to the state and these revenues are used to finance public spending, i.e.:

- Health;
- Education;
- Cultural activities;
- National safety;
- Social activities;
- Other public services.

Globalization is a phenomenon that manifests itself not only in the economic sphere but also in the political and social sphere, so that we can say that international politics is not only done in states today, and that power can and is exercised, so governments and non-state authorities.

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