

ANALYSIS OF THE SPECIFIC MONEY LAUNDERING CRIMINAL CASES EVOLUTION IN ROMANIA

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Abstract: *This article intends to put into the light an analysis about the evolution of money laundering criminal cases in Romania, being confident about mirroring the Romanian authorities' implication on this matter, too. Through the included study, we generally concluded that for the last 10 years, the economic criminal cases had a constantly growing up trend, and the money laundering cases, as well. Tax evasion is enlighten as the most used illicit method associated with money laundering phenomena. We think future fight against money laundering mechanism should be increase, a better knowledge about the real causes and the encountered effects will be necessary for academic and governmental reflections. The limitation of this analysis is about the quantitative approach and how accurate the Ministry of Justice has made public all data incurred on the economic criminal cases on this period.*

Keywords: *money laundering, criminal cases, tax evasion, underground economy, organized crime*

JEL Classification: *F62 O50*

Introduction

The increasing interest and concerns, manifested by international and national bodies, in recent years, in relation to the phenomenon of money laundering, are determined by the major implications on the economic, social and political environment. At the international level, when it comes to money laundering, we consider, first and foremost, the great gains obtained from: drug trafficking, arms and ammunition trafficking, trafficking in nuclear or radioactive materials, counterfeiting currency or other values, smuggling, human trafficking, pimping, etc.

In Romania, although the offenses listed above are encountered, they do not produce the huge sums that are committed in other geographical areas and as such they do not represent the main predicate offenses underlying the acquisition of black money.

The main crimes that generate illicit money are of a financial-fiscal nature, more precisely, those that are currently the object of Law no. 241/2005 for preventing and combating tax evasion, with subsequent amendments and completions.

Literature review

According to Radmore (2010), worldwide, the underground economy and money laundering have become a mandatory topic in macroeconomic analysis.

If we analyze the economic statistics and the specialized publications from Romania during the socialist planned economy, we find that, officially, the Romanian economy is not confronted with underground activities and money recycling fraudulently obtained.

But foreign analysts who have studied the phenomenon, especially on the basis of statements and surveys among emigrants from socialist states, have found that the underground economy existed before 1989 in all fields of activity in socialist states, comprising a heterogeneous set of activities, and it was developed parasitizing the official economy, but still bringing some solutions to the shortcomings and rigidity of the planned economy and to the problems of supply, standardization or poor quality of the products.

It is true that due to the organized power of the repressive system, illicit activities such as drug, weapons, human trafficking, or other forms of organized crime appeared quite accidental and there was no prospect of proliferation.

But the “secondary economy” also included a fairly large illicit sector.

Pierre Pestieau (1989) described it as follows: “He [the illicit sector] contains businesses of all sizes, starting from individual activities (clandestine taxi, tailors at home) to hidden factories, often operating within state-owned enterprises. In the latter case, the employees of the enterprises produce more than what is provided in the plan. This surplus production is sold without being registered in accountancy, through the network of official stores, and the profits are divided between the participants “.

The incomes obtained by those involved in clandestine commercial networks allowed them a higher standard of living than would have been possible only from official gains.

If the clandestine revenues were invested in houses, cars, electronic products or other goods whose origin could not be justified from the official sources of income, they were confiscated, according to the legal regulations in force. Basically, there was a fight against money laundering, without the phenomenon being so called. But the control structures of the financial-banking institutions were not involved in the fight, because the money obtained clandestinely were run by these institutions to a very small extent.

Also, the system of repression bodies (military, prosecutor’s office and security) had broad competences, which allowed them easy access to information including from financial-banking institutions.

After 1990, if in the other states of Eastern Europe the detachment of the socialist system occurred somewhat directed by the political forces that came to power structures, in Romania the system breakdown was violent, causing an economic and social disorder, whose remedy was gradually realized, over a period of ten years. The economic legislation needed for a market economy appeared late, often not being adapted to the functioning mechanisms of the market economy and the realities in Romania.

The lack of adequate legislative framework and the hesitations in applying the existing legislation have made possible the proliferation of underground economy networks involved both in lawful activities in which black labor was used, tax evasion and other economic frauds were committed, as well as in organized crime activities targeting trafficking. of drugs, of persons (networks of illegal kidnappings, prostitution, beggars, etc.), arms trafficking or public corruption (materialized in fraudulent privatizations, immense damages in the valorization of assets of state-owned companies and so on) (Chaikin and Sharman, 2009).

In Romania, after the emergence of companies with private capital until about 2005, the most frequent cases of underground economic activity, in which large amounts of money resulting from smuggling, domestic underground production, avoiding payment of taxes or fraudulent obtaining of the reimbursement of some taxes from the state budget, involved the use of a special companies named ghost companies.

The company networks combined the activity from the official economy with the one from the underground economy in which the ghost companies acted. The rule was that both profits and tax obligations should be directed from the official economy to the underground economy. The profits returned to the offenders, and the tax liabilities were never paid, turning them into profits available to the offenders.

These companies, which did not work at the declared headquarters, formally carried out operations of very high values and did not pay any taxes, were involved in complex branches, through which the payment documents circulated in such a way that the companies working “in sight” were seemingly relieved of tax burdens. The tax obligations remained with the ghost companies, which could not be subjected to any fiscal controls or executions.

In the most important networks, in the ghost companies were involved citizens of the Middle East (Turkey and the Arabian states). Often, when registering companies that were to function as ghost companies, they used fake documents, both in terms of identity documents of the owners (associates), as well as the rental contracts or property documents regarding the premises where they were to be. - carries out its activity.

In this situation, the ghost companies began to operate clandestinely as if they were working under normal conditions: opening accounts in banks, doing imports, exports and internal trade documents. Much of the proceeds (fraudulently obtained) were transfer to the home states of the entrepreneurial owners or withdrawn in cash.

Moreover, in the underground economy cash predominated as a means of payment, so that a large number of acts of withdrawal or deposit of cash in the bank accounts appeared (Meall, 2010, pp. 38-39).

Methodology of research

We carried out a fundamental descriptive research type, regarding the evolution aspects of the criminal cases registered at the level of the Public Ministry of Romania, in the particular form of the offense generated by the phenomenon of money laundering.

The analysis of the interdependencies between the money laundering offense and other associated economic crimes will also be considered. In order to carry out an analysis regarding the crime of money laundering in Romania and the comparison with what happened at European level, we used public data mediated by the specialized authorities in Romania and at the European Union level.

We have chosen the quantitative research of this area, in order to have an image on the size of the efforts made by the authorities in solving the criminal cases concerning this crime at national level.

From the analysis of the data regarding the main offenses from which resulted the amounts subjected to “washing”, as can be seen from Table no.1, these are mainly from tax evasion (maximum 82% during 2012-2016).

Table no. 1.1. Percentage of the offenses notified to prosecutors, 2012-2016

The generating offense	2012	2013	2014	2015	2016
TOTAL, from which:	100,0	100,0	100,0	100,0	100,0
Tax evasion and embezzlement	82,5	83,0	70,2	58,8	74,3
Another economical crimes	8,8	9,7	20,8	24,9	12,7
Crime activities	8,7	7,3	9,0	16,3	13,0

Source: by the author using Public Ministry statistic reports

In the above table, the embezzlement represents the actions by which the money were illegally collect, meaning taxes steeled from the state budget. According to the provisions of Law no. 241/2005 to prevent and combat tax evasion, money laundering is an offense associated with tax evasion.

Other economic “offenses” included smuggling, fraudulent bankruptcy, the use of goods or credit of the company, contrary to its interests, frauds regarding the quality of goods and customs offenses, and “criminal activities” included drug trafficking, corruption, etc.

We specify that the percentage presented were calculated according to the number of offenses included in the information transmitted by the National Office for Money Laundering to the Public Ministry, and not according to the amounts resulting from them.

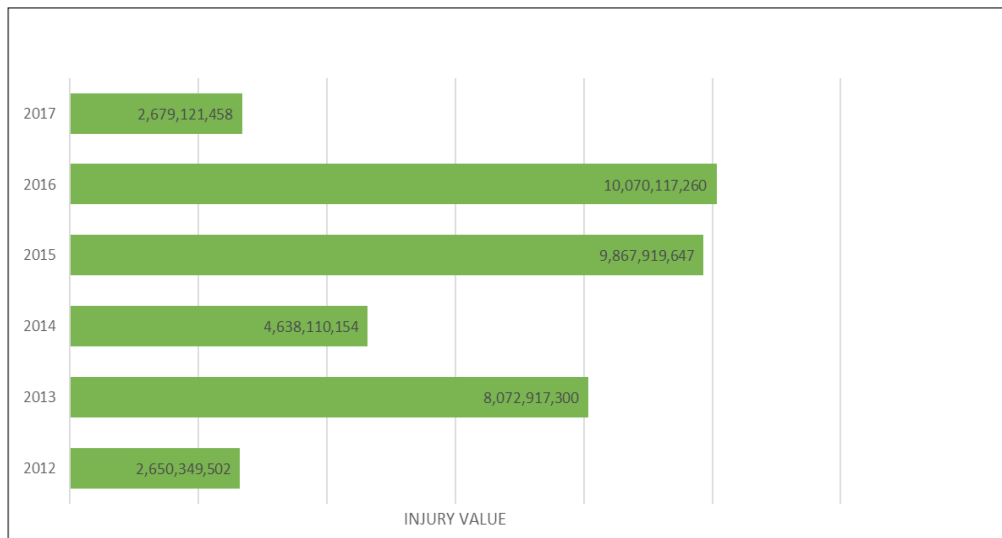
According to the statistical data published by the Public Ministry in 2018, the amounts resulting from these crimes, exceed ten or even hundreds of times the amounts obtained in most other criminal activities, so we can say, without doubt, that over 95% of the money washed in Romania comes from economic and financial crimes.

Table no. 1.2. The evolution of injuries made by economic criminal cases between 2012 and 2017

Year	The value of the damages determined for the persons sent to court		Assurance Measures in LEI
	in LEI	in EURO	
2012	2,650,349,502	174,150,228	1,869,681,989
2013	8,072,917,300	135,168,085	1,920,392,286
2014	4,638,110,154	762,221,130	2,473,736,148
2015	9,867,919,647	218,397,429	12,850,523,417
2016	10,070,117,260	74,258,043	3,419,199,877
2017	2,679,121,458	109,939,512	1,617,063,406

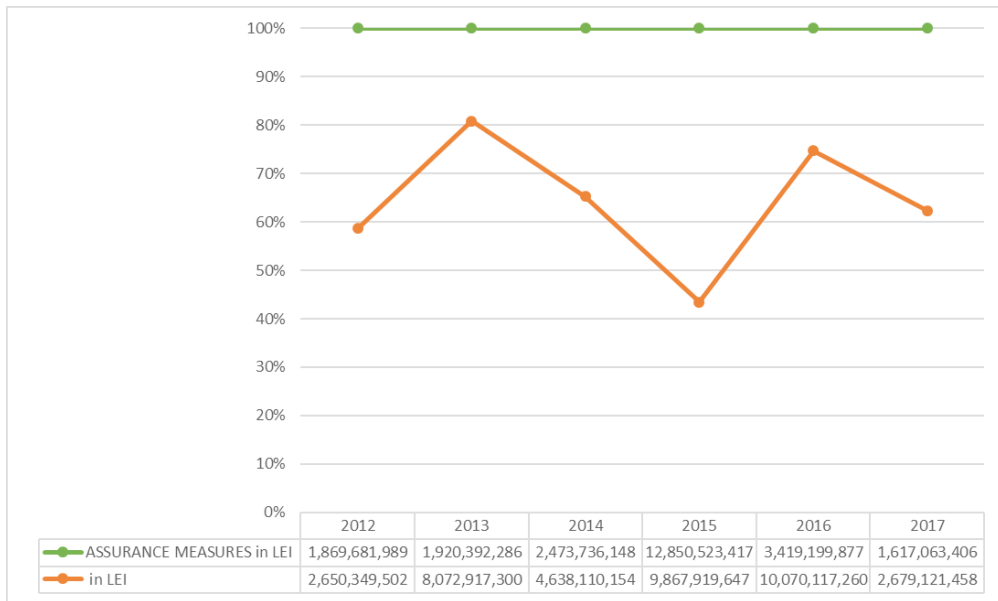
Source: data processed by the author using Public Ministry statistic reports

Figure no. 1.2.1. The evolution of injuries made by economic criminal cases, 2012-2017



Source: data processing by the author

Figure no. 1.2. 2. Comparasion of total value of damages and the totalvalue of assurance measures made for recovery, 2012-2017



Source: data processing by the author

By a comparative examining, the statistical data from the entrance date of Romania's into the European Union with those of 2017, we can see some increases values of indicators in the areas of interest for the Cooperation and Verification Mechanism, as follows.

- corruption offenses: 698 defendants sent to court in 2007 against 1281 in 2017 - with even higher values in 2014-2016;
- the offense of conflict of interests / the use of the function to favor some persons: 1 defendant sent to court in 2007 against 49 in 2017; the value of the insurance measures ordered by prosecutors to recover the damage: from 791 mil. lei in 2007 to 12.850 mil. lei in 2014,
- money laundering: 42 defendants sent to court in 2007 compared to 280 in 2017;
- tax evasion: 361 defendants sent to court in 2007 compared to 1361 defendants in 2017
- trafficking of minors: 98 defendants sent to court in 2007 compared to 211 defendants in 2017;
- trafficking in migrants: 6 defendants sent to court in 2007 compared to 145 defendants in 2017;

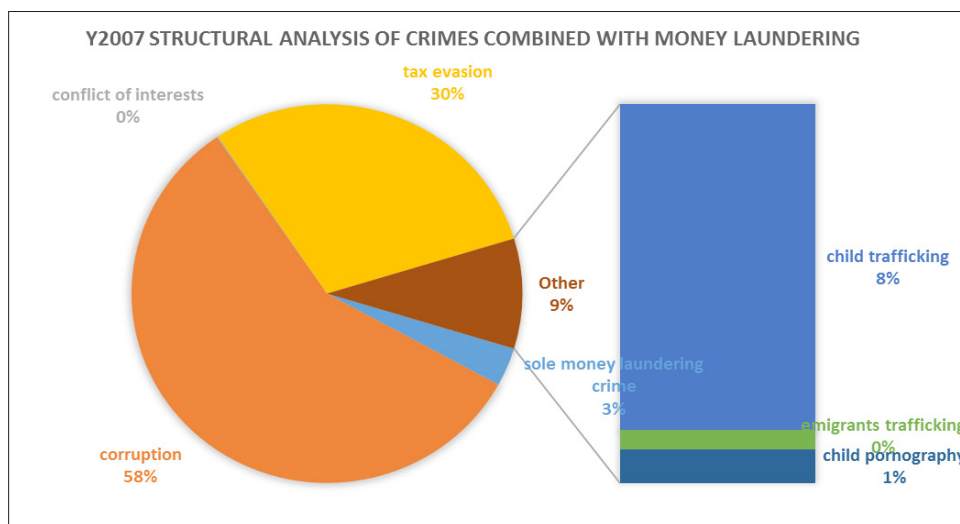
- child pornography: 10 defendants sent to court in 2007 compared to 163 defendants in 2017.

Table no. 1.3. The evolutive structure for associated crimes with money laundering during 2016-2017

	Money laundering crime (Law no 656/2002)					
	Other Crime combined with or sole money laundering crime	2007	2017	% 2017 / 2007	2007	2017
	0	1	2	$3=2/3*100$	4= % in total annual crimes 1-7	5= % in total annual crimes 1-7
1	sole money laundering crime	40	280	700.00	3.44	9.19
2	corruption	698	1281	183.52	59.97	42.04
3	conflict of interests	1	49	4900.00	0.086	1.61
4	tax evasion	361	1361	377.01	31.01	44.67
5	child trafficking	98	211	215.31	8.42	6.92
6	emigrants trafficking	6	145	2416.67	0.52	4.76
7	child pornography	10	163	1630.00	0.86	5.35
	TOTAL	1164	3047	261.77		

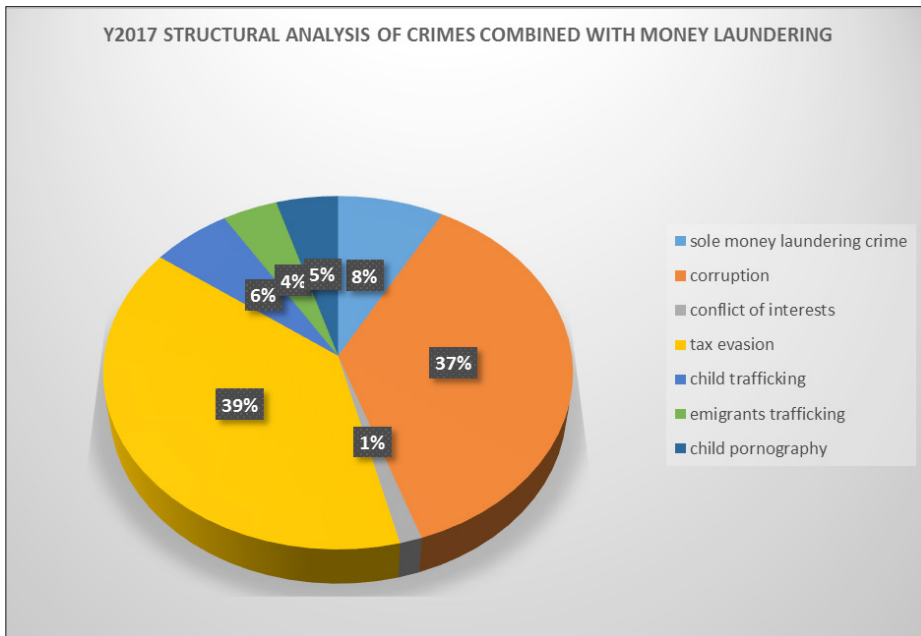
Source: data processing by the author

Figure no. 1.3. The evolutive structure for associated crimes with money laundering –Y 2007



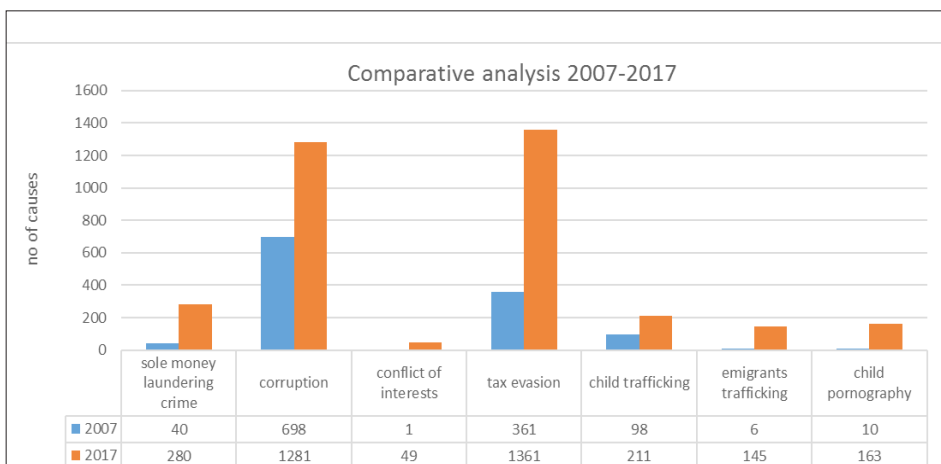
Source: data processing by the author

Figure no. 1.3.1. The evolutive structure for associated crimes with money laundering –Y 2017



Source: data processing by the author

Figure no. 1.3.2. Comparative analysis 2007-2017 about the criminal cases with money laundering associated crimes



Source: data processing by the author

A worrying situation in recent years is the increase in the number of offenders and the amounts of money laundered by Chinese citizens. They usually carry out a commercial activity through companies with a registered office, which keep a certain accounting records, submit accounting reports and legal tax declarations, pay taxes and taxes related to the registered businesses, but only register a small part of the commercial activity carried out, most of the goods coming from smuggled or undervalued imports into customs. Also, only a small part of the receipts and payments runs through bank accounts, practicing almost exclusively cash payments. As a result, it is very difficult to determine the actual volume of business and the size of the evasion committed by not registering them completely.

From the area of the crimes associated with money laundering, we find tax evasion and corruption.

From the correlative analysis of the data collected on the corruption files, which include or have associated as crime also the money laundering, we notice that only 10.8% of the investigations were solve and sent to court. However, the rate of settlement of money laundering files, not associated with other crimes, had an increasing trend in the period 2013-2014 (between 37% and 55%), so that during the next two years, 2016-2017 there is a decrease relatively appropriate (39-40%).

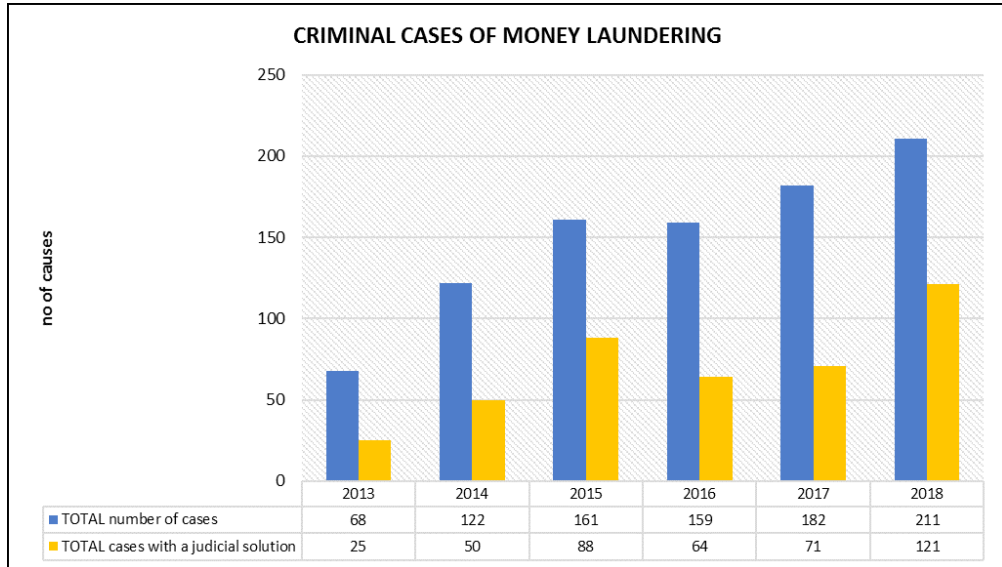
In 2018 we see a sudden jump, the percentage of money laundering files based on Law no. 656/2002, registering the highest growth in the whole period 2013-2018, respectively 57%, aspects that are presented suggestively in the following.

Tabel nr. 1.4. The evolution of the sole criminal cases about money laundering

Money laundering criminal offense (Law no. 656/2002)	TOTAL number of cases	TOTAL cases with a judicial solution	%
AN			
0	1	2	$3=2/3*100$
2013	68	25	0.37
2014	122	50	0.41
2015	161	88	0.55
2016	159	64	0.40
2017	182	71	0.39
2018	211	121	0.57
TOTAL	903	419	0.46

Source: data processing by the author

Figure no. 1.4. The stage for criminal cases solely about money laundering



*Source: data processed by the author using Public Ministry statistic reports
(<http://www.just.ro/date-statistice/>)*

Appreciations regarding the research results

According to the research carried out, it is observed that, between 2007 and 2017, economic crimes in general, and money laundering in particular, were in an upward trend.

In Romania, after 2007, since becoming the EU member country, the trend in the volume of criminal cases has been increasing, in a very worrying form. The number of criminal cases concerning economic offenses was in 2007 with more than 70% less than in 2017 (for example for the single offense of money laundering, the number of files increased from 40 files in 2007, to 280 files in the year 2017). However, the value of the damages did not have a constant evolution, the highest value being registered in 2016, and the smallest value registering in 2012, specifying that in 2017 there is a value similar to the one registered in 2012 (2.65 million lei in 2012, compared to 2.68 million lei in 2017).

Analyzing correlatively, we deduce that, in order to explain why the value of the damages has a different tendency to the evolution of the number of criminal cases, it is necessary also a deepening of the way of establishing the damages, an aspect that will be developed in the following other articles.

The most active domain in the area of crimes associated with money laundering is found to be tax evasion, followed by a similar trend of corruption.

However, in 2018, according to the Public Ministry, the evolution of the main categories of offenses has the following structure (depending on the number of accused persons sent to court and the percentage of total accused persons sent to trial):

- against the person 11,868 (19.8%)
- against the heritage 13,916 (23.3%)
- against public safety 20,767 (34.7%)
- provided by special laws 7,312 (12.2%), of which:
 - offenses under the regime of intellectual property rights 107 (0.2% of the total accused persons sent to court);
 - corruption offenses provided by Law no. 78/2000 - 820 (1.4% of the total accused persons sent to court);
 - offenses regarding the illicit drug trafficking and consumption, 1,757 precursors (2.9% of the total accused persons sent to trial).

Conclusions

As shown in the analysis performed above, the annual changes of money laundering activities, at national level, have a worrying trend of increasing, registering very large increases by comparing 2017 to 2007 and for the whole period 2007-2017.

In the case of the amount of damages determined by the judicial bodies, however, the annual trends were different, respectively with a similar increase and decrease in 2013 as compared to 2014 and 2014 compared to 2017, respectively, a return of growth at the level of 2016, because in next year 2017 they register approximately the same level as in 2012 (2.6 million lei). Thus, we find that the Romanian economy is very affected from the perspective of the techniques for carrying out the economic crimes, and especially the one regarding money laundering.

We conclude that the evolution of the criminal cases registered in the judicial bodies is in an upward trend, which denotes a weak involvement in the prevention activity. Also, the degree of solution of the criminal files regarding the crime of money laundering and of the associated ones register the same tendency, which denotes an involvement of the competent authorities, greater in the area of control, than in the one of prevention. In our opinion,

this situation should be change, and the authorities' involvement should include more activities for economic crime prevention. For sure, this kind of prevention attitude would trigger an efficient fight against money laundering and organized crime.

We do think that future fight against money laundering mechanism should be increase, a better knowledge about the real causes and the encountered effects will be necessary reflections for governmental bodies and for academic area, as well.

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