

THE FINANCIAL CRIME IN REPUBLIC OF MACEDONIA APSTRACT

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Abstract

The economic crime as a system of groupings of types of criminal acts with similar characteristics in modern conditions is characterized by a rich and diverse criminal phenomenology, adaptable to all stadiums of the development of society. The financial crime is part of the economic crime which is rapidly evolving and expanding causing huge material damage, as that undermines the foundations of the functioning of any country, especially some that ten years ago transited from contract in a trading economy, what is case of the Republic of Macedonia.

The article presents observations of the current situation with financial crime in the Republic of Macedonia, which highlight the specifics regarding the actions of all subjects included in the fight against this difficult and complex phenomenon. It's rightfully to point out the need for specialized treatment of financial crime in managing financial investigations as well as criminal operating items. For this purpose are applied modern criminality tools and methods derived primarily from the bosom of conspiratorial police and judicial instruments and methods provided by the Law of the Financial Police. Resolved financial crime in the country is not a reflection of reality, given that this area is with extremely high "dark number".

Keywords: Economic crime, financial crime, financial investigations, "dark number"

Introductory remarks

When we are talking about financial crime we always have in mind the fact that he is an integral part of economic crime. Economic crime includes "different actions of violation of the law in performing of market activities by physical or legal entities, which causes harmful effects on the system of economic relations or other market entities (physical or legal entities) in their business relations or as a consumer of goods and services."³²³

Financial crime as typically non-violent crime is performed by offenders who have great ability and professionally knowledge of the financial area. Financial crime has a destructive effect on the national and world economy.³²⁴ He is a typical example of the non-violent and "silent crime" which such as cancer affects all modern societies, which tend to be dealt with in the projected, long-term specialized criminalist and wider social strategy. This

³²³ Kambovski V, Organiziran kriminal, Skopje,2005, page 79

³²⁴ See more: Angeleski M., Ekonomska kriminalistika, Skopje, 2013

crime is dynamic and adaptable, and with all the vehemence erodes the functioning of the financial blood stream or the economic system as a whole and includes several legislative Incriminations which in different countries are differently named.

The financial crime in Republic of Macedonia

Considering the conception of the new Criminal code of the Republic of Macedonia, on the criminal legal protection of the economic relations, the term financial crime primarily include incriminations contained in the head 25 (Crimes against public finances, payment and commerce) and head 30 (Crimes against official duty).

The global analysis of the current situation regarding the scope and dynamics of the solved financial crime in the Republic of Macedonia shows no particular consistency. In the period 2002 - 2012 average of 615 perpetrators are reported and 907 perpetrators of Crimes against official duty. (Presented in table 1)

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Crimes against public finances, payment and commerce	759	490	632	580	599	569	596	543	620	472	285
Crimes against official duty	489	685	846	957	773	930	1112	1061	1067	825	317

Table 1: The reported perpetrators according to the groups of criminal acts³²⁵

The data of the State Statistical Office for the period 2007 to 2012 show that the number of the persons accused for Crimes against public finances, payment and commerce, decreases, with the exception of 2011. In contrast to them, the number of the persons accused for Crimes against official duty, in this period mainly increases. You can observe that the highest percentage of accused persons are found guilty, while an insignificant number of accused persons are not found guilty, no matter it is stopped procedure, exemption or rejection of the accusation. Displayed statistics obviously show that in the case law, safety measures are almost completely neglected. (Presented in table 2)

Table 2: Accused adults according to the crime and the type of the decision

	Year	Total accused persons	Guilty	Not found guilty			Security measures
				Procedure stopped	Free od accusation	The accusation is rejected	
Crimes against public finances, payment and commerce	2007	365	268	47	13	37	/
	2008	312	251	20	20	20	/
	2009	266	204	19	21	22	/
	2010	263	203	27	10	23	/
	2011	308	240	30	17	21	1
	2012	285	212	43	15	15	/
Crimes against official duty	2007	256	153	42	38	23	/
	2008	291	175	46	38	32	/
	2009	343	167	93	43	40	/
	2010	262	142	54	37	29	/
	2011	365	133	104	87	41	/
	2012	317	150	86	41	40	/

³²⁵ <http://www.stat.gov.mk/Publikacii/2.4.12.09.pdf>

For evaluating the effects of the fight against financial crime essential mean have insights that refer of the proportion between the number of the convicted persons and the implementation of the measures confiscation of the property and deprivation of objects. (Presented in table 3) For a period of six years 2004-2009 the number of persons convicted for Financial Crime generally increases. This increase is followed by pronouncing of an insignificant number of measures of the confiscation of the property which is almost constantly reduced.

The measure seizure cases have common applications in a growing number of criminal offenses. From 2004 to 2007, this measure is often pronounced, and in 2008 with the slight decrease of convicts, to reduce the number of measures imposed seizure cases in 2009 to increase again.³²⁶

Year	2004	2005	2006	2007	2008	2009
Total convicted	8097	8845	9280	9639	9503	9801
Deprivation items	503	357	537	712	633	963
Confiscation	91	80	30	0	18	30

Table 3. Convicted adults under imposed security measures, imposed confiscation of property³²⁷.

The available data from the Bureau of Statistics for the period of 4 years (2007-2010) of surface discharge of interesting observations about the ratio groupings of financial crimes against the number of measures imposed confiscation of property and seizure of items. (Presented in table 4)

Year	2007			2008			2009			2010		
	Total	confiscation	seized items	Total	confiscation	seized items	Total	confiscation	seized items	Total	confiscation	seized items
Crimes against public finances, payment and commerce	268	/	43	251	7	53	204	6	61	203	8	39
Crimes against official duty	153	/	8	175	/	7	167	4	4	142	3	13

Table 4. Convicts who have been pronounced confiscation or seizure items.

These official statistics show that in crimes against public finances, payment and commerce, the number of convicted offenders observed decline on account of the fact that in 2007 not pronounced any measure of confiscation and the next years have seen a slight increase in the number its pronouncing. The pronouncing of the measure providing for temporary seizure of items and are noted growing number of its application. Given the fact that these crimes are big financial gains conclusion that these measures are underrepresented in judicial practice.

In 2007 and 2008 has not been given any confiscation in relation to criminal offenses against official duty. In the following two years, 2009 and 2010 (when the number of sentenced in a mild decline), imposed unexceptional number of measures for confiscation.

Analysis of cases conducted by the courts in the Republic of Macedonia in 2010 and 2011³²⁸ shows that insignificantly apply these measures. The total of 154 observed cases

³²⁶See: Goceva E. Master Thesis: financial investigations and confiscation of proceeds of crime, page.107

³²⁷ www.stat.gov.mk statistical review 2.4.8.07 (594), statistical review 2.4.9.11 (631), statistical review 2.4.10.12(665), statistical review 2.4.11.15 (698)

corrupt about 174 crimes that are acted upon in 2010 only 6 cases (4%) is a decision for or provide temporary seizure, while in 97 cases (63%) are not adopted solutions implementing some of the measures for providing or subtraction.³²⁹

Out of 174 monitored cases covered by 194 offenses, who acted in 14 courts in the country, only 8 cases (5%) of a decision on temporary seizure or securing property, while in 87 cases (50%) are not submitted solutions for implementing some of the measures for providing or subtracting from the received data and there is little use of temporary security measures and confiscation of objects and property.³³⁰ The notion of providing temporary objects and properties implied timed freezing , seizure or blocking of funds , bank accounts , financial transactions or criminal proceeds that are associated specifically with certain crime , so such objects or property to be available during of the criminal proceedings. Although this is one of the newer procedural means (together with the special investigative measures have enriched judicial instruments for the purpose of combating organized crime), confirming the notion that the effects of case law regarding this minor.

Financial investigations are conducted in parallel with criminal proceedings, and they reveal income from crime, determines one's movable and immovable property should be seized temporarily, in order to create the conditions, such property afterwards finally confiscated. The effects come to the particular expression if the function model of practice teamwork that involves handling of several specialized officials of several state organs that are responsible for conducting financial investigations and conducting operational criminal cases.

To deal with this kind of crime, it takes highly trained and professional cadres that carried out financial investigations using sophisticated methods resulting from the bosom of the Criminal Procedure Act, the law on Financial Police and other statutory regulations. Undoubtedly the special investigative measures greatly facilitate the fight with heavy forms of economic crime, but we should not neglect the importance of operational tactical measures and investigations as instrumentalism for initial detection of this type of crime.

Pursuant to statutory indirect methods of proving financial crime stipulated in the Law on Financial Police, specialized officials mostly used: the method of proving the property, the method of proof of net worth and the bank deposits method, while the percentage margin methods and special items are at least used.³³¹

Empirical studies show that officials specialized in dealing with financial crime generally rely on trigger special investigative measures, the practice of which the most common are: inspect and search a computer system, simulated opening bank accounts and registering simulated legal entities.³³² This shows that the Macedonian criminal practices give absolute preference to use the conspiratorial instruments, although material traces remain on company records can innovate, processed and evaluated by the public and police through transparent instruments or criminal activities.

Concluding remarks

Economic crime is evolving in several areas thus causing huge negative effects are devastating damage inflicted economic system. Financial crime is one of the most difficult

³²⁸ http://www.all4fairtrials.org.mk/Main_files/Korupcija_2011_mkd.pdf

³²⁹ www.all4fairtrials.org.mk/Main_files/Korupcija%20Izvestaj%202010%20MKD%20-%20Slamkov.pdf

* The research is part of the “Program for monitoring of court cases relating to corruption” prepared by the Coalition “All for Fair Trials”, with the help of the European Union

³³⁰ http://www.all4fairtrials.org.mk/Main_files/Korupcija_2011_mkd.pdf

³³¹ This situation is empirically confirmed by two recent studies, which rely on a survey of about 50 specialists employed by the Ministry of Interior and the Financial Police.. See: Goceva E., *ibid.*, page.121-142, Kuzmanoska M., *ibid.*, page 130-140

³³² See more: Goceva E., *ibid.*; Kuzmanoska M., *ibid.*;

forms of economic crime that carried perpetrators have legitimate properties in society arising from the performance of office, employment or properties acquired under any law.

From the official data of the State Statistical Office can be concluded that in the period 2002-2012, the prevalence of known financial crime in the country has seen some inconstancy seen the number of reported and convicted offenders committed crimes against public finances, payment trade and commerce and crimes against official duty. The pronouncing of security measures is not a characteristic of this period and almost is not represented.

Apart from safety measures, the measures for the confiscation and seizure cases are more common, but not to the extent that correspond to the number of defendants.

Specialized officials in conducting financial investigations commonly used three indirect methods: the method of proving the property, the method of proof of net worth and the bank deposits method.

Contemporary inevitable tool to combat financial crime (indeed with any other form of organized crime) impose special investigative measures, in Macedonian legislation introduced in 2004 by amending the existing Law on Criminal Procedure. Police practice shows, and this is confirmed by the latest police empirical research that when dealing with financial crimes in the country, workers often implemented the following three special investigative measures: inspect and search a computer system, simulated opening bank accounts and registering simulated legal entities.

There is no doubt that the fight against financial crime as an unconventional form of organized economic crime should lead specialized personnel with a university degree (criminal and economic), which should constantly upgrade their knowledge to improve its capacity to deal with this phenomenon.

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