

MONEY WASHING AND LEGAL PROBLEMS FROM THE TRANSBALKAN AND EAST EUROPEAN COUNTRIES

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The relations of the contemporary states towards «grey economy»

Contemporary sciences, primarily economic and political ones, devote a permanent and not small attention to the relation of the state and economy, understood as «legal» activities. There is and there was a less interest for the relation of the state towards so called «grey economy», i.e. towards the sophisticated forms of crime, which are, on one side, the representatives of the legal business world, and on the other side, are the representatives of the illegal business world.

From various reasons, even a small number of explorers which decide to explore these, in many manners still «terra incognita», usually stop on the level of pure description, and only rare ones give a scientific explanation which satisfy the world of science. At any case, it is not easy to explain, for example, how the corruption became the law of social and productional relations and which is always inevitable when the greatest part of the social reproduction go through the public institutions, where an invisible rent is being paid for all the relations in which the people are reproduced as personalities and it is not easy to explain how and why the Mafia became not only semi-official announcer but also the barrer of the capitalism reconstruction on the territories of the former socialist countries.

In order to make clear a real, and not a proclaimed relation of a contemporary Balkans state towards the world of organized crime, it is best to take into consideration a concrete example of that relation. For example, the relationship of the state towards «money washing» as a phenomenon convicted by all the countries all over the world as a crime per excellence.

When dirty money saves state budgets

In crime's vocabulary, the term «money washing» means a criminal's activities, which aim at money legislation during the criminal act. In the meantime «money washing» at its semiotic dimension has an expanded definition, because of «grey economy's» development all over the world. This has as a result the transmission of huge financial amounts to «familiar» directions, in order to avoid the state control and the huge taxes. Besides, the birth of the administrative state will, concerning the connecting way between the legal and non financial activities or transmissions is based on this event.

Starting from this point, we are leaded - indirectly but clearly - to a finding,

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which excuses the retort (response) in the behavior of the «official state» and also of the wider «political world» about the restriction of the examined event under theoretician and state level.

- a) Theoretically and de jure, most of the countries are limited to the conviction of the illegally incoming money, which causes a great damage, because of the state income's decrease.
- b) In practice and de facto, some countries incline towards «money washing». The legislation of the illegal money by organized state entities gives us the mark (speck) of the relationship between them with the «grey economy». This relationship characterizes the known conflict between the theory and act on one hand and the feasibility and reality on the other hand.

A general classification in the relationships between state and illegal money should include three cases at least:

- a) tolerance to «money washing»,
- b) approval and active state participation,
- c) optional repulse.

In each of these relationships we may meet many smaller cases, which depend on environment's suitability and specifications. Without the intention for generalization, we could say that there isn't worldwide any state without the existence of the illegal incoming money mechanism, independently of any direction of the «grey economy» to the flux of the official financial policy.

Overlooking little amounts which are income by unorganized crime, we give our attention to the «financial transmissions» of huge amounts (which come from important criminal activities) for two reasons: the hiding of the criminal nature and their usage to wider legal and labor relations. The organized crime is, without any doubt, a universal event, because the most powerful criminal teams and organizations extend their activities everywhere on the planet. If we are trying to make a plain list with the most active and dynamic criminal organizations, which influence the plan for «money rinse», we can notice the following:

- South America's cartel by drugs traffic;
- Tiente, the Chinese organization, with an existence of more than 300 years, whose central seat is Hong Kong;
- Giakouza, the Japanese syndicate of crime, which has more than 90.000 members. According to the experts' opinion, it is considered as the best organized team and the most healthy financial «association»;
- Kamora in Napoli, Norangeta of Calabria, Santa Korona Unita and of course the well known Mafia of Sikelia, whose name is byword with the organized crime, and Cosa Nostra is connected with;

- Read Mafia in Russia, expanded in the countries of South East Europe. Its existence is characteristic with a quick spreading and an interesting structure. Its difference from the other organized criminal teams consists in the high level professionalism: ex secret services members of ex communistic regimes and also ex terroristic organizations members constitute its active members.

This kind of organized criminal teams make fantastic incomes by drugs traffic, weapons, prostitution, slave-trade, lucky games and recently by the illegal storage of dangerous matter: nuclear, chemicals and generally toxic industrial waste by rich countries to non developed areas, usually with the agreement of those countries governments. Based to the available financial datas, the companies of the European Commission made works for more than 500\$ billion¹.

The will for the greatest possible profit brought crime people and policy people in juxtaposition. The organized crime is not any more distinct to the social system, as it used to be. What is asked now is the «participation» of the organized crime to the political and financial life and its assimilation by two worlds, which make the realization of quick and huge profits feasible.

The diffused intervention of the crime to all steps of society is the medium that gives the following message: «When all is Mafia, then nothing is Mafia»².

The question is now, if the complicated social circumstances, which are formed by the borders abolition, by the financial attenuation of many countries, permit the development of opposite forces for contradiction to the «new miracle world of crime...»³.

How is money transmitted and how the clues are lost. Three secrets leading to the «banking paradise»

Besides any other changes, there is only one fixed point, the technique of «money washing», which includes three phases: Placing - Accumulation - Completion. There are three possibilities for the placing:

¹ Hartmut Volk: «Die organisierte, Kriminalität bedröht die Existenz des Staates», in *Der Arbeitgeber* 1992, 957 f.

² Hans Layendecker, Richard Rickelmann, Georg Borisch *Mafia im Staat*, Gottingen, 1992, s. 13.

³ Richard Sola, «L'internationalisation de la Mafia chinoise», in *Défense Nationale*, Décembre 1992, s. 126.

- a) The system to be used to the money provenance country through smoothings, whose deposits are less than 10.000 DM, either through bank employees bribery, or through bank check.
- b) The support of banking area under good terms, whilst sometimes these people establish their own banks.
- c) «Logical» cash transmission to «banking paradises». If the transmission is being made by airplane or ship, then the preferred distance is Florida-Koumbi and USA-Canada, while in balcanic area the transmission is taking place even in a sace-voyage. This last case is the most often case of placing.

The second phase of «money washing» is the accumulation, in order to hide the money clues. The following procedure is hold: Money is «transmitted» from one bank to another by «monkey»-companies, which are in more than two countries with H/Y help. This is very useful for the legal restrictions approach, without the recognition of the owner and the ascertainment of the company type.

The completion is the last phase of «money washing». Its purpose is money repatriation to the descent country. If we want to have an example of practice, we must examine the Giakouza case. This organization aims to the «continuous speculation», where there are two speculative firms (A and B). The one who is making the «money washing» is the one who controls the traffic and has an official income under a legal form, in order to be completed with banking credit. After this, the «paled» money has to be placed to a financial paradise, i.e. if there is a company in USA which is connected with a «monkey» company, asks first for a banking credit on this event money is coming back as income and then it is repeated for new or fantastic credits.

Let's close the holes of illegal people

Because of the complicated procedure of «money washing», we are all trying to find a way against it. In Europe the mediums are not good enough and cannot stop the complicated criminal activities. In some European countries can someone talk about instigation or state participation to the «washing». These countries, either because of banking tradition (i.e. Switzerland), of because of the capital's special direction are considered at the best of the areas for this kind of procedures.

In the meantime, we can find some «holes» to the regulation for the financing of political parties or political temas with specific accommodations about illegal money income and bribery. The bribery is very used to countries with low level incomes of state employees, such as Russia or countries of ex eastern block. We are talking many times for police or politicians bribery without any result.

The most remarkable area is the Eastern Europe. Besides the event that the countries of ex Red Empire are not in force any more, we can examine there the relationship between the policy and the financial crime, with immunity. Recently, there were some presumptions for illegal relationships between politicians and

criminals in Germany and Italy. As far as we have to do with the ex communistic countries, after their new structure, their new financial and legal system and their efforts to be part of European community, we can see a lot of decline elements.

Legal problems from Yugoslavia and the other Transbalkan countries

In terms of Yugoslavia, semitransition, war and embargo created great and real chances for quick enriching by means of cooperation between the illegal and legal foreign business world, with the part of the world of the local politics and economy, primarily in the field of the money trade, in the field of the trade with weapons, oil, but also with any other deficient goods, and in such a manner, the same attracted attention and fingers of the world criminal organizations. In connection with this, relatively clumsy and slowly, the local and organized crime is being initiated.

We live in the country, in which, even from the time of «opening» of a great number of private banks and savings banks, as well as of private firms with great initial capital the original of which has not been interesting to anyone up classic, initially invested «money laundries» from outside, are in question, and therefore, till now, there is not an adequate lawful protection from «money washing» and from any other criminal mediation with money, especially with the cash. It is not known how many times the bags full of foreign exchange have been brought all over the world, and they continue to be filled with adjusted value (sticung), very frequently, on the relation Belgrade-Kosovo (which is overfill with the money acquired by crime), by means of false documentation, relating, for example, to agricultural activities. The political world, more precisely, all the big parties, always longing for the money, receive rather large money donations not bothering of their origin and without disgusting to the «personality and deed» of the donators who, most frequently, give offers to the left parties, as well as to the right ones, to get, in substitution, the status of the respectable and untouchable citizens, and this can mean that there is not any alternative in this sphere.

As a comfort, we can commend, that we have overpassed the West regarding the human rights and freedom, because of establishing the human right (but not written one) relating to the violence, including the semi-legal robbery from the robbery of a necklace to the robbery of the poor social property. Of course, freedom with us, also has no barriers, in this case. We tolerate the organized crime, not only because of our inability, but also because we secretly admire it, believing that, in that way we become a part of «the great world», that we are more important if we contact the same, and even in that manner which, unfortunately, nevertheless, has not made free anyone, ever and anywhere of his provincial complex.

What, undoubtedly, represents a great legal problem in Yugoslavia, as well as in other Balkans countries, is the fact that there is ignorance of the phenomenon of «money washing» as the whole phenomenon. The police and the financial authorities of control have, only a partial knowledge about the subject, and the

authors of the law do not have almost any knowledge of the same.

At any case, this is not the only reason for non-existence of the law by which it could be effectively prevented «money washing». This law non-existence represents a problem, too. In some Balkan countries it is officially stated that such a kind of crime does not exist. But, many of the authorities in the Balkans are wisely silent about it. The reason for that is clear. The poor Balkan countries have some benefits from this kind of crime. Their laundries bring some profit to the states which have a desire for the foreign exchange. Cyprus is their banking paradise. Their chances to solve themselves the conflict with that kind of crime, are impracticable. Due to the fact, that damage from such kind of crime, as well as of any other, is bigger than the benefit, the only chance is a common, interbalkan, legal and state action.