

MANAGEMENT APPROACHES IN TERMS ECONOMICS AS BOTH FRAUDULENT AND THE ECONOMIC THEORY OF VISION CRIMINAL LAW

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Abstract

The evolution of the economy as a whole on the general and particular, can take place only under a judicious administration of heritage assets in service and / or maintaining various public or private entities (in many cases in - connection of the two forms of property) as a positive policy which recognizes that power. Economic management act positively is beneficial and can be seen as such by the results obtained in - a certain period of time, but can be damaging, if not done professionally and responsibly may result in the latter case production which may take forms of criminal damage. On this issue this material detailing theoretical and practical aspects that may occur and which are required to be given appropriate solutions.

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I. Management issues economic and its alteration in rural criminal

Economic environment as a whole, can not be conceived without the existence of at least two coordinates, conservation or efficient management of the property (assets), product, or service even gave over to the use and storage of natural or legal persons in the context of positive order the right to a sound administration. Alteration that good, damage, destruction or loss of specific legislation are sanctioned events and the elements of ethics and moral justice, inseparable from human being.

The economic dimension of conservation is not a good subject matter of this material, we will not elaborate, but it must make some clarifications:- Management of property preservation activity, product or service, is ubiquitous throughout the business tier and- Human and material conservation effort a good product or economic nature involves a cost and cost elements of the that is required to be set on a real and who has provided such a business and you are entitled to assign benefits (in cash or kind) to the extent that cost, regardless of value at a time that the good or product that it - had to conservation or. Economic management, seen in - a broad perspective, as an essential coordinated environmental and economic culture it is specific activity in the sphere of production of material goods and services provided primarily aimed at obtaining at least a minimum profit once in advance or covered by revenues, expenditures judiciously made for obtaining good service.

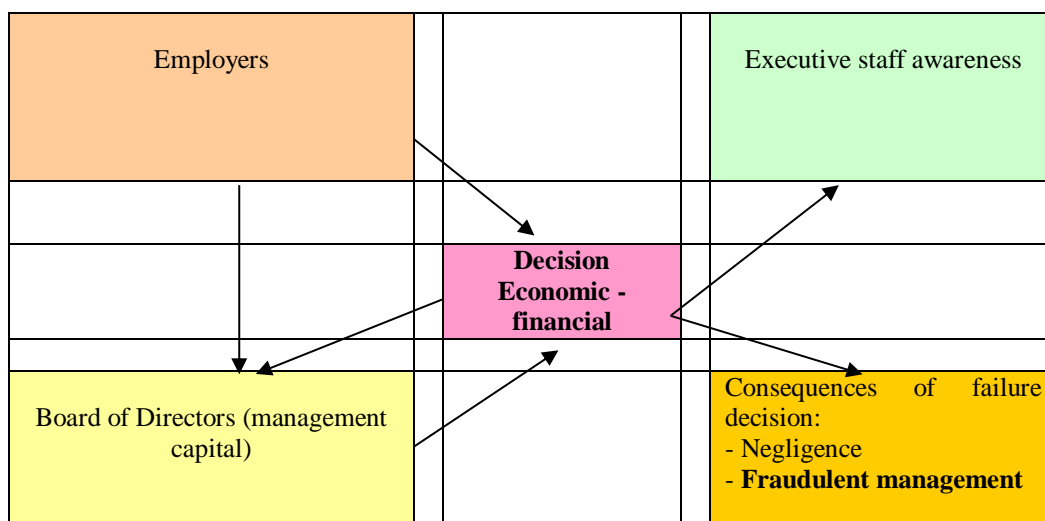
Management is in - overwhelmingly economic in origin - financial, related to the nature of human thought and practice, the frame is exceeded believe that we - to do with the climax and abnormal phenomena related to atypical areas and no interest great. Doctrine defines economic management - financial as that dynamic balance - positive input from all flows of raw materials, services and outputs occurred, quantitative, qualitative ... necessarily measurable value - pecuniary. We speak of economic management when income received (and certainly collectible) fully cover all expenses paid, in - a period of time and an efficient economic management is when earnings exceed a specified above - a higher proportion higher or lower spending levels in the context of the above play. Moreover, management concerns and adopted decisions, actions and acts heritage management implications that entity or in whole, or separately - to find that special treatment of assets and liabilities management, treasury management activity that

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economic held, is in progress, or is considering establishing a future economic strategy based on the results of management.

Decision of the competent person or body authorized to take such measures are very important in the management of heritage - but also true is that direct action have their own importance, that those facts made with insight, ability and professionalism in management heritage, which in economic is not easy, and neglected. Financial management and maintenance endurance economic conditions finally materialize in a profit, which may be assessed as satisfactory or not. In terms of purely economic, capital management to initially be made available through a profit as dividends received over that - it gave the average weighted yield (interest) bank. The abstract case presented above, the vast majority of those who invest in the economic sphere, not - would be subject to risk that may interfere with the activity, would sit still, and after the three, six, months, and - would receive amounts due (interest on deposits). But capital investor desire is growing economic environment dictated easy as a corollary of the principle which creates a need solving other needs, and knowing that a profit can double, triple, than that offered by the banking sector, (he investor) assumes the risk capital in their employment - management is, that economic activity - financial. Is then called to approve or disapprove decisions of broad perspective on managing the entire capital and own capital of the general meeting of shareholders, as part of a whole, or a proposed new coordinates the activities and the administration called in and capital management to come to sustainable decisions in this regard. So the decision remains the foundation element in economic management activity, but the decision must be sought both during her- Preparatory (technical documentation- economic advance), adopting its decision phase (specialized consultations that are to take place at the adoption / approval), and the implementation of that decision:

- Preparatory (paper technical - economic advance), adopting its decision phase (specialized consultations that are to take place at the adoption / approval), and the implementation of that decision. Moreover, results that seek to achieve phase-phase, economically, the economic implications of direct or indirect, present or future to result in obtaining a reasonable profit. It can speak, and then poor management of (the) called the manifest content and provisions of a decision - we view that these should be brought to them in advance elements of such decisions, those persons (implementing bodies) being able to - and be able to materialize a profitable in economic terms has been predicted (guessed) by decision. If such staff aware not raise exceptions, it is presumed that he is entitled to be engaged in - a future economic perspective, and if not: it can be replaced by people able to make a decision already made provisions managerial aspect. Staff performance that exceeds such a framework, in case of deviations exceeding the admissible limits, can be attributed to reprehensible acts and misconduct in office, fraudulent ... and could - go to fraudulent management, makes the subject matter of this material. The main task of the executive board, which is called effectively manage equity, implicitly, its sound is to closely monitor each phase, process, or division of economic activity, such- Not place the good of disturbances proposed activity, gaps in specific streams, the default result, the width of all proposed, but especially financial coordinator, and this realization that lead to decisions that achieve the desired profit. Course objective reasons can occur that can lead to deviations from the intended axis (eg sudden appearance of a galloping inflation). Schematically, it can be a representation of the above presented as follows:



We find that in the economic, subjective conditions such as insufficient monitoring flows of the entity's executive staff to leave it to the right decision with negative consequences that may occur (attributable forum execution because he is not empowered to decide, run only in terms of quality, quantity ...) - Can easily lead to crime, respectively inadequate management. Also in economic, employers, respectively Jurisdiction seeking to - and see profits after capital invested in their bank accounts (as dividends), may use the existence of a qualification activities generated inadequate management. Thus, in our opinion, only the earlier adopted decisions, management decisions took place in advance, and with specialized equipment (board of directors / management) who is entitled to materialize before the actual decision approved, we tackle the issue of existence fraudulent in economic management. The displayed above is a virtual frame can be triggered when criminal proceedings regarding the offense of fraudulent management that we detail in the next chapter.

II. Connotations of the offense of fraudulent management criminal in economic dimension

Management documents and facts are readily found in the documentation the economic - financial, that exist within the economic entity, especially those relating to inventory, disposal and the balance / financial balance - sheet, profit and loss respectively. Fraudulent management that we really disliked is clearly stated in the article 144 of Law no. 85/2006 on insolvency that reproduce overwhelming art diaries. 214 of the Criminal Code impairments that is dedicated fraud management. So literally reproduce the article in the Penal Code the crime of fraudulent management, as follows:

- Par. 1: Impairments of damage, bad faith, when its management or conservation of property by one who has time to take care administration or preservation of those goods shall be punished with imprisonment from 6 months to 5 years.
- Par. 2: Management fraudulent committed in order to gain a material benefit shall be punished with imprisonment from 3 to 10 years if not a serious criminal impairments.
- Par. 3: If the property is private property, unless it is wholly or partly owned by the state prosecution for the impairments referred to in paragraph 1 shall be initiated on complaint of the victim.

Doctrine in criminal matters is a breakdown of that crime in a coordinated series such as legal object, material object, the subjects of crime, objective and subjective side, that we find

appropriate coordinates to be treated in this material but strictly coordinated economic, with a particular predilection profit entities are provided by Law. 31/1991 on trading companies. Thus, by recording the crime of fraudulent management in the criminal law aims to protect the assets that a person (or entity) entrusts to another, for management and conservation, in the sense that it does not cause damages in bad faith by the person who - entrusted property, the legislature criminalizing the impairments in simple form (paragraph 1) and aggravated (paragraph 2). Legal subject is of interest particularly in economic, legislative strictly as a component instead of the physical object management analysis that treats the doctrine of fraudulent criminal impairments relevant to clarify the existence criminalized by law. The material object of the impairments of criminal charges that the doctrine of fraudulent management of assets belonging to the estate of a person (either as part of a whole, or all assets), both movable and immovable property, that - a person entrusted (default an undertaking) under a legal obligation which results to conserve and manage the property. Active subjects are those who have received for storing and managing the assets and passive subjects are those who have the assets entrusted others to conservation and preservation.

The objective side of fraudulent management includes material element of that crime, namely that action or inaction that led to the creation of damage, and, besides this material appears essential element - the most important of which are administrative, and criminal law a understood as being work carried out in the nature and destination of goods. Above all in the context exposed by conservation doctrine understands that criminal activity to protect the property, acts or omissions which result in: loss, destruction or degradation that good, and there must be causation between the work of receiving the goods to management and damage occasioned owner (s) of those goods. The subjective aspect of the impairments of fraudulent management as they committed intentionally (in) directly, accepting the risk of damage, but incontinent foreseeable risks and aggravating as the infraction is found in par. 2 of art. 214 of the Criminal Code, attempted production reprehensible act that is not punishable. When criminal law speaks of the existence of a material good, economically in that concept can be incorporated and the notion of providing service, such as franchise (the right marketing / provision of service to others on a well defined segment). Not address issues pertaining to such crimes as criminal proceedings does not matter economically sun. We consider relevant to be noted is the economic context of the infraction, as discussed in strictly legal angle but also in terms of doctrine, what we try through the ranks below. Therefore, the definition itself of the criminal on fraudulent management can be distinguished that we necessarily - to do with committing of damage, which is reflected in the economic context, either by action of inventory, which, as is well known includes mandatory and value, and if the value recorded by that action taken is less than initially can speak illegal management : Or by - a specialized expertise that recorded values clearly lower than those recorded at the beginning as financial documents. But after labor has occurred, and as criminal doctrine section provides material object previously mentioned, it requires the existence of a legal richly framed in positive order of law. Thus there may be a civil contract with specific terms by which a company takes to management, use, good, good or service that is usually included in the category of assets that generate income for the entity , which can ultimately lead to higher profit or lower and accounted for as such. But also true is that the good entered the domestic economic circuit, while he wears, and may lose its initial value, which can be seen not only in financial transaction inventory, but also the expertise that can be place on that segment, reflected as such in internal scripts economic entity. If the contract drawn up legally, the company has not provided a specific clause that, that good value maintenance (equipment,

aggregate ...) to take place on account of income is obtained of him, and there is a decrease the time value of the property, the contracting company is fraudulent management hypothesis.

We therefore recommend that in such cases the takeover by the company of a good or service by economic destination, the contract / agreement ending the (co) owner of that good or service - to receive contractual pecuniary grateful to both contractual parties on the asset transferred, otherwise, the considerable value, one can easily reach a finding of fraudulent management. This case is true for real estate, which in the current economic crisis ensemble - and financial - have lost much of its original value, and the company only to administer the estate and not good - contract clause provided such kind of situation can lead to unpleasant situations in the context of guilt settling fraudulent management. If preservation of a good or service, avoiding degradation, deterioration of, we believe that society - to engage in - such a small cross operation, good record that the liability category, generating on going obligations, spend measurable as such (security, warehousing ...) in the profit and loss, and the restitution, the company shall be entitled to monetary consideration of their service and that all the contractual or civil agreement. Definition of fraudulent management, under the criminal aspect, also provides an essential the facts insufficient detailed criminal aspect in our opinion, namely the: no bad faith, ie: if damages caused and - within that context did. As is well known, good faith is a concept, a specific civil and bad - faith is its opposite, so consider making a short useful insight good - faith, to its scientific definition, so we have a integrated picture of fraudulent management definition of the crime.

As the work of Dr. Gerasim Dimitrie: „Buna – Credință în Codul Civil”, Academy Press RSR - Bucharest 1981 write that any definition of the concept of good civil - faith is dangerous, however, that copyright in the aforesaid material, defines good faith as: awareness safe observation all the requirements for perfecting a legal relationship, and that event, witness the putting of two specific forms:- Work honest, loyal and full mutual trust and execution end of legal documents, agreements, obligations ... the essential element: intent.- Faith and excusable error, protected as such by law and fairness in the context of the four virtues, namely loyalty, prudence, and temperance order.

Bad - is the antipodes of good faith - faith, morals and ethics with implications for social and practical manifestation of bad actions - beliefs are: fraud, fraud and abuse of rights. Good faith legal headquarters is art. 1898 and art. 1899 of the Civil Code. But speaking of fraudulent management, legal context, means that fraud, fraud and abuse of law is already ubiquitous in the case under review and economic damage, commensurate pecuniary, to have been effectively reflected in financial instruments, and no unequivocal evidence to be held later asserting the existence of the infringement. On causation in the criminal sense, we consider it necessary to have some reflections based on the economic consistency, as follows: damages caused which may prove the existence of documents, surveys, account statements ... must have the necessarily the cause: the actions or inactions were taken to the management company, managing, preserving good. Are excluded from criminal identification improper management and other activities that damage the existing undertaking, but not clearly linked with the good that has been written contract or agreement. At the same are excluded others up as injured parties, and not - have identified the quality of (co) owners reported as such in the operation of transfer of the property that originally occurred. It should be emphasized the idea that the crime of aggravated fraudulent management, the item entitled: material benefit gained in this respect tend to think for themselves, but can not be excluded that the option be useful for other people (relatives, blueberries ...). But the economical aspect, it must be acquired benefit measurable in terms of value (monetary), both in size of assets and liabilities heritage, and in direct correlation with the

property rented or leased for use. Of course, the economic processes losses may occur, and especially on property that may be fraudulent management, but since these losses are inevitable, registered as such in the specific technical measures, excluding elements of subjectivity, the loss can not be charged entity called to manage the property. This can happen when there are a number of benefits in economic, such as scrap reduction constant appearance, diminishing returns on the stream course that can generate benefits, but since their was the financial consideration and directed to acts of preservation and conservation of the property, we are not - to deal with fraudulent management. Recommend in this regard, the existence of financial management acts that are to be made within the time when such phenomena occur even in the presence of neutral person, to remove doubt of acquiring a material benefit on account of the good in question.

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