

# THE LEGAL GENERIC AND SUBGROUP SUBJECT-MATTER OF CRIMES RELATED TO ILLEGAL PRACTICE OF FINANCIAL ACTIVITY

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## **Abstract**

*The classification of a prejudicial act pursuant to Article 241<sup>1</sup> [Illegal Practice of Financial Activity] of the Penal Code of the Republic of Moldova depends directly on the accurate determination of the crime objective and subjective constituents. The starting point to this end is to define the subject-matter of crime. This paper is aimed to review the complexity of the subject-matter of crimes related to illegal practice of financial activity. Hence, the social relations on the national economy are the generic legal subject-matter of the crime concerned. Moreover, the subgroup legal subject-matter is also present due to the wide scope of the national economy, which incorporates different spheres of activity. In case of crimes related to illegal practice of financial activity this subject-matter is composed of social relations covering the entrepreneurial activity. Ultimately, we shall mention that the identification of social relations affected by the committed crime involves truthful and consistent application, by the law enforcement bodies, of the provision set forth by Article 241<sup>1</sup> of the Penal Code of the Republic of Moldova.*

**Keywords:** generic subject-matter, subgroup subject-matter, national economy, entrepreneurial activity, financial activity, financial means.

**JEL Classification:** K14

## **1. Introduction**

*Ab initio*, the classification of crimes is the determination and legal acknowledgment of the exact correspondence between the signs of the prejudicial act committed and the signs of the offence composition provided by the criminal legislation [Article 113 (1) of the Penal Code of the Republic of Moldova (hereafter referred to as the PC RM)]. *A fortiori*, the composition of an offence is considered to be the whole of objective and subjective signs defined by criminal law, which classify a prejudicial act as an actual offence covered by the legal and criminal provision [Article 52 of the PC RM].

Moreover, the criminal law doctrine provides that, in order to impose criminal liability on an individual, the crimes committed by him/her shall contain all elements and constituents of a crime. *Per a contrario*, the absence of any of those elements or constituents shall mean that the act cannot be classified as an offence.

In the same vein, we shall state that the legal subject-matter of an offence is a binding component, inherent to any crime, as there is no crime in place unless it has a subject-matter.<sup>2</sup> *Ipsa factum*, V. Paşca points out that the meaning of the legal subject-matter stems from the existence of an offence provided that there has been an attempt on the social values protected by the criminal legislation or at least a threat thereto.<sup>3</sup> Hence, while considering the peculiarities of crime constituents, the starting point is to define accurately the subject-matter of crime. This would enable defining the legal nature of crime constituents, its separation from other crime elements, and exact classification of the committed act.<sup>4</sup>

The legal subject-matter of crime is extraneous to the Moldovan criminal law. Therefore, we shall resort to the legal doctrine, which states that the legal subject-matter is constituted from the

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<sup>2</sup> Borodac Al. *Criminal Law Handbook. The General Part*. Chisinau: Central Printing House, 2005, p. 108.

<sup>3</sup> Paşca V. *Criminal Law: the General Part. Third Edition, with up-to-date amendments brought to the Criminal Code*. Bucharest: Universul Juridic, 2014, p. 172.

<sup>4</sup> Salakhova Zh. V. *Influence of the object and subject of the crime on the qualification of crimes against property*. In: Bulletin of the Chelyabinsk State University, 2007, No. 9, p. 83.

social value, against which the criminalised offence is directed, and the relevant social relations.<sup>5</sup> Likewise, we shall note that the hierarchy of crime legal subject-matter is widely tackled in the published literature, having defined three types thereof: general subject-matter, generic (group) subject-matter and special subject-matter.<sup>6</sup>

*A priori*, we shall bear in mind that the general legal subject-matter is represented by the combined social values protected by criminal law, the generic legal subject-matter is composed of many similar social values, stemming from the crime systematisation set forth by the Criminal Code, while the special legal subject-matter is represented by the social value protected by a certain criminal provision, regarded a singular subject-matter.<sup>7</sup>

From the perspective of this assertion, in order to apply criminal liability pursuant to Article 241<sup>1</sup> of the PC RM it is necessary to identify all social values and relations prejudiced by the committed offence.

## 2. General and generic legal subject-matters

The general legal subject-matter is composed of all social values and relations protected by criminal law targeted by the socially dangerous act. This is common for all crimes.<sup>8</sup> The general legal subject-matter is based on the provisions of Article 2 of the PC RM, *ad litteram*: criminal law protects against offense the individual, the rights and freedoms thereof, the property, the environment, the constitutional order, sovereignty, independence and territorial integrity of the Republic of Moldova, the peace and security of mankind, as well as the entire rule of law.

Further, we shall state that the generic legal subject-matter is composed of a beam, the group or the bunch of similar,<sup>9</sup> homogenous and mutually dependent social values via a single generic sign. This subject-matter allows classifying the crimes depending on certain criteria, contributing to the determination of the harmful feature of crime, which belongs to a certain group of crimes. Hence, it is possible to distribute the legislative matters as per a certain system that is subordinated to a single objective criterion. Moreover, the generic legal subject-matter of crime allows defining the place of criminal provisions adopted subsequently within the system of criminal legislation, which criminalises one offence or another.<sup>10</sup>

Therefore, the generic legal subject-matter determines the systematisation of the Moldovan Criminal Code into 18 chapters, and it shall be the same for the crimes listed in a Special Part chapter of the of the Penal Code of the Republic of Moldova.

The crime related to illegal practice of financial activity referred to in Article 241<sup>1</sup> of the PC RM is assigned to Chapter X “Economic offences”. Therefore, the chapter name itself reveals that the generic legal subject-matter is made up of social relations on the national economy (*alias* socio-economic relations). The national economy is based on the following principles of economic activity: the freedom of economic activity, carrying out the economic activity based on legal grounds, fair competition of economic operators, good faith of economic operators, banning the obviously criminal forms of economic operators.<sup>11</sup> D. Babalau treated the general legal subject-matter in a similar way, stating that the national economy, seen as a component of the rule of law, evolves as a fundamental social value, which is defended against the crimes covered by Chapter X “Economic offences” of the

<sup>5</sup> Grama M. et al. *Criminal Law: the General Part. Vol. I*. Chisinau: F. E.-P. Central Printing House, 2012, p.179; Gurschi C., Hadîrcă Ig. Title 8. Peculiarities of considering certain categories of cases. Published in: *The Judge's Handbook for criminal cases*. Poalelungi M., Dolea I., Vizdoagă T. et al. Chisinau, Central Printing House, 2013, p. 442.

<sup>6</sup> Botnaru S., Şavga A., Grosu V. *Criminal Law: the General Part. Second Edition*. Chisinau: Cartier juridic, 2005, p. 131.

<sup>7</sup> Rîşniţă A. The theory of legal subject subject matter – between strictness and ridicule. Published in: *Studia Universitatis Babeş-Bolyai, Seria „Jurisprudentia”*, 2014, No. 2, p. 129.

<sup>8</sup> Copetchi St., Hadîrcă Ig. *Classification of crimes: Teaching notes*. Chisinau, “Central Printing House”, 2015, p.113.

<sup>9</sup> Mitrache C., Mitrache Cr. *Criminal Law of Romania. General Part: pursuant to the new Criminal Code, Second Edition, revised and supplemented*. Bucharest: Univers Juridic, 2016, p. 147.

<sup>10</sup> Brînză S. The importance of the crime legal generic subject matter/object. Published in: *National Law Journal*, 2004, No.3, p. 4-6.

<sup>11</sup> Stati V. Notion, general description and types of economic crimes. Published in: *National Law Journal*, 2007, No. 1, p. 33-35; Stati V. *Economic crimes: Teaching notes. Second Edition, revised and updated as of 1 July 2016*. Chisinau: CEP USM, 2016, p. 16; Stati V. *Economic crimes: Teaching notes. Third Edition, revised and updated as of 1 May 2019*. Chisinau: SOE “Central Printing House”, 2019, p. 16.

Penal Code Special Part.<sup>12</sup>

From this perspective, in light of Article 126 para. (1) of the Moldovan Constitution, it has been highlighted that the Moldovan economy is a socially-oriented market economy, based on freely competing private and public property. *Ipsa iure*, this clearly shows that the Legislature referred to the country national economy when using the term of market economy.

We shall bear in mind that there is clear differentiation in the comparative law in terms of locating the rules, which define legal liability for unlawful financial practice (*i.e.* pyramid schemes). *Ad probationem*, this is stipulated by either the Penal Code or special laws, such as the laws regulating the commercial relations, the consumer's protection, *e.g.*:

– the Criminal Code of the Republic of Albania: Article 143/a “Fraudulent and Pyramid Schemes” is located in Chapter III “Criminal Acts related to Property in the Economic Area”, Section II “Fraud”<sup>13</sup>;

– the Criminal Code of Australia: Article 168/a “Chain Games” is located in Section VI “Offences against foreign ownership”<sup>14</sup>; Article 44 “Participation in a Financial Pyramid” and 45 “Financial Pyramid” of the Law on Competition and Consumer's Protection is located in Volume 2, Part XI, Chapter 3, Section 3 “Pyramid Schemes”<sup>15</sup>;

– the Criminal Code of Hungary: Chapter XLI “Economic and Business related Offences” contains Article 412 “Organisation of Pyramid Schemes”<sup>16</sup>;

– the Criminal Code of the Russian Federation: Article 172.2 “Organisation of activities to attract funds and (or) other assets” is located in Title I “Crimes in the sphere of economics affecting the economic liabilities and economic order”, Section VIII “Crimes in the sphere of economics”, Chapter 22 “Crimes in the sphere of economic activity”<sup>17</sup>;

– the Criminal Code of Peru: Article 246 “Illegal Financial Institutions” is located in Title X “Offences against Financial and Monetary Order”, Chapter I “Financial Offences”<sup>18</sup>;

– the German Law on Combating Unfair Competition dated 3 July 2004: Article 16 (2) “Advertising involving criminal liability” is located in Chapter 4 “Sanctions”<sup>19</sup>;

– the Law on Consumer Protection of Estonia: Article 16 (8) (14) “Pyramid Schemes” is located in Chapter 3 “Offering, selling and marketing the goods and assets in other ways”, Section II “Transaction techniques between vendors and consumers”<sup>20</sup>;

– Law No. 173 of 17 August 2005 of Italy: Article 5 “Banning the pyramid-type sales and the pyramid games”<sup>21</sup>;

– the Code of Consumption of France: Article L-121-15 from Book I “Raising Consumers' Awareness and Commercial Practice”, Title II “Commercial Practices”, Chapter II “Banned Commercial Practices”, Section 5 “Selling or rendering “snowball-type” services”<sup>22</sup>;

– the Trade Law of Spain, disposition: Article 23 “Banning Pyramid Sales” is systematised in Chapter I “General”, Title II “Sales promoting activities”, Article 65 h) “Severe Offences” comprised

<sup>12</sup> Băbălău D. *Criminal liability for illegal practice of entrepreneurial activity*. Author's abstract to the PhD Thesis in Law. Chisinau: SOE “Central Printing House”, 2016, p. 57

<sup>13</sup> The Criminal Cod of the Republic of Albania, available at: <http://www.legislationline.org/documents/section/criminal-codes/country/47> (accessed on 13.01.2021).

<sup>14</sup> Criminal Code of the Republic of Austria, available at: <http://www.legislationline.org> (accessed on 13.01.2021).

<sup>15</sup> The Competition and Consumer Act 2010 of Australia, available at: <http://comlaw.gov.au/Details/C2011C00003> (accessed on 13.01.2021).

<sup>16</sup> The Criminal Code of Hungary, available at: <http://www.legislationline.org/documents/section/criminal-codes> (accessed on 13.01.2021).

<sup>17</sup> The Criminal Code of the Russian Federation: Law of the Russian Federation No. 63-F3 of 13.06.1996, In: Collected Legislation of the Russian Federation, 1996, No. 25.

<sup>18</sup> Peru Código penal, Decreto Legislativo no. 635 de 08.04.1991, available at: [http://www.cicad.oas.org/fortalecimiento\\_institucional/legislations/PDF/PE/decreto\\_legislativo\\_635\\_codigo\\_penal.pdf](http://www.cicad.oas.org/fortalecimiento_institucional/legislations/PDF/PE/decreto_legislativo_635_codigo_penal.pdf) (accessed on 13.01.2021).

<sup>19</sup> The German Act against Unfair Competition 03.07.2004, Gesetz gegen den unlauteren Wettbewerb, available at: [https://www.gesetze-im-internet.de/uwg\\_2004/UWG.pdf](https://www.gesetze-im-internet.de/uwg_2004/UWG.pdf) (accessed on 13.01.2021).

<sup>20</sup> Consumer Protection Act of Estonia, Tarbijakaitseadus pärit, available at: <https://www.riigiteataja.ee/akt/TKS> (accessed on 13.01.2021).

<sup>21</sup> Legge n. 173 del 17.08.2005, disciplina della vendita diretta a domicilio e tutela del consumatore dalle forme di vendita piramidali, available at: <http://www.camera.it/parlam/leggi/05173l.htm> (accessed on 13.01.2021).

<sup>22</sup> Code de la consommation France, available at: <https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006069565> (accessed on 13.01.2021).

by Chapter II “Types of crimes”, Title “Offences and sanctions”, and sanctions are covered by Article 68 of Chapter III “Sanctions”<sup>23</sup>;

– the Banking Law of Sri Lanka: Article 83C “Banning certain schemes” is systematised in Chapter X “General”<sup>24</sup>;

– Romania, Ordinance No. 99 dated 29 August 2000 on Selling Market Goods and Services comprises the provisions of Article 35 and Article 36 in Chapter V “Commercial Practices”, sanctions for such misleading commercial practices are covered by Article 73 (14) and Article 74<sup>25</sup>. Likewise, Paragraph 14 of Annex No. 1 “Commercial Practices”<sup>26</sup> is mirrored in Law No. 363 dated 21 December 2007 on combating wrong practices of vendors in their relations with consumers and harmonising the regulations with the European legislation on consumer protection of Romania, etc.

In light of the *aforementioned*, we note that the lawmakers of other states stipulated civil, contravention or criminal liability for financial pyramids or for “snowball-type” sales. By the way, we shall highlight that our Legislature regulated contravention liability for organising financial schemes (Article 263<sup>1</sup> of the Contravention Code) and criminal liability for illegal practice of financial activity (Article 241<sup>1</sup> of the Penal Code). Therefore, we regard our state model to stipulate not just the possibility to criminalise such harmful acts, but also its suitability, as it incorporates several ways of committing such crimes, *i.e.* organising financial pyramids, using the MLM (multilevel marketing) networks or other such manners. Therefore, the scope of Article 241<sup>1</sup> of the MCC is wider and criminalises a larger range of illegal financial activities.

Turning to the location of Article 241<sup>1</sup> in the Penal Code, we shall point out that in case of foreign countries, the crimes and/or contraventions are assigned to: economic crimes/contraventions, financial crimes/contraventions, trade and/or consumer protection crimes/contraventions, and pyramid or “snowball-type” sale crimes/contraventions.

In this regard, in case of domestic criminal legislation, we consider as inappropriate the inclusion of crimes related to illegal practice of financial activity into a chapter covering the crimes committed in the financial sphere (as per the Peruvian legislative model). Therefore, the breakdown of the Penal Code Special Part into categories of crimes committed in different areas of economic activity would determine the inefficient extension of the Penal Code at a time when the identification of the special legal subject-matter of crime is paramount for the act classification. Moreover, we shall highlight that the legal doctrine role is to determine the general, generic and subgroup legal subject-matter (in case of certain categories of crimes), as well as detailing their substance.

Likewise, we think that the crime regulated by Article 241<sup>1</sup> of the PC RM shall not be assigned to the category of crimes involving property (like the Criminal Code of Australia, the Criminal Code of Albania). In case of the crime concerned, the ambition of the organiser of illegal financial activity to derive money, property or other material advantages may create the illusion that the property-related social relations have been affected. The perpetrator’s wish to accumulate cash/property is a common feature of many economic crimes.

*A fortiori*, the commission of the crime referred to in Article 241<sup>1</sup> of the PC RM involves practicing financial activity without registration and/or authorisation (licence), in the manner covered by the legislation. Therefore, we shall conclude that the socio-economic relations are adversely affected by the commission of an offence related to illegal practice of financial activity. Therefore, the financial means accumulated following the commission of an offence related to illegal practice of financial activity stem from the infringement of social relations on the national economy rather than from the infringement of property-related social relations. Therefore, in the current wording, the Legislature has established as a binding sign causing material damage [Article 241<sup>1</sup> para. (1) of the

<sup>23</sup> Ley 7/1996, de 15 de enero, de ordenación del comercio minorista, available at: [http://noticias.juridicas.com/base\\_datos/Privado/17-1996.html](http://noticias.juridicas.com/base_datos/Privado/17-1996.html) (accessed on 13.01.2021).

<sup>24</sup> Banking Act of Sri Lanka, available at: <https://uspee.md/wp-content/uploads/2019/04/RND-No.-8-2016.pdf> (accessed on 13.01.2021).

<sup>25</sup> Ordinance of Romania No. 99 dated 29.08.2000 on Marketing Goods and Services, available at: <http://legi-internet.ro/blogs/media/blogs/a/OG-99-2000-comercializare-produse-servicii.pdf> (accessed on 13.01.2021).

<sup>26</sup> Romanian Law No. 363 of 21.12.2007 on fighting against unfair practices of traders in their relations with consumers and harmonising the regulations with the European legislation on consumer protection, available at: <https://lege5.ro> (accessed on 13.01.2021).

PC RM] or causing significant material damage [Article 241<sup>1</sup> para. (2) of the PC RM], which may determine the crime concerned to be assigned to the group of property-related crimes, but such approach is erroneous.

By the way, it has been concluded in the doctrine that the crime committing mechanism covered by Article 241<sup>1</sup> of the PC RM does not imply producing harmful consequences.<sup>27</sup> Therefore, the provision of Article 241<sup>1</sup> para. (1) of the PC RM covering the part on “causing material damage” and Article 241<sup>1</sup> para. (2) “the same act causing significant material damage” shall be catalogued as technical-legislative errors.<sup>28</sup>

Likewise, we note that during the Moldovan Parliament plenary held on 11 May 2012, it was claimed that: “nowadays, the fraudulent schemes multiplied to such a great extent and took a variety of forms that sometimes it is difficult to identify them. Occasionally, even when people acknowledge the imminent risk they expose themselves, they do it in the hope to derive quick and easy proceeds. The most recent and blatant example to this end is the launch and operation of the well-known “MMM” pyramid on the Moldovan territory... Paradoxically, but, so far, there is no rule to defend the people against such schemes. The importance of this draft law lies on the introduction of a rule that would defend the citizens prior to the occurrence of material damage, before the moment the citizens would find themselves devoid of assets and in the impossibility to recoup their losses. Nowadays, the existing rules shall apply only at the moment of producing the damage”<sup>29</sup>. Following the performed review, having corroborated the provisions of Article 241<sup>1</sup> of the MCC [before the amendments introduced by Law No. 225 of 15 December 2017 and by Law No. 179 of 26 July 2018] and the reference standards, considering the preparatory measures and the historical background when this Article was approved, we think that the Legislature criminalised the act of illegal practice of financial activity rather than the attempt to depositors’ property.

Concurrently, we cannot assign the crime of illegal practice of financial activity to the group of crimes against consumers. Having regard to the domestic legislation, we shall stress that the financial pyramid hallmarks are referred to in Article 13 para. (12) of the Law on Consumer Protection, No. 105 of 13 March 2003. According to its provisions, it shall be considered as unfair, under any circumstances, the commercial practice on creating, operating or fostering a promotional pyramid system, which is taken into consideration by a consumer due to the possibility to be remunerated following the introduction of another consumer into the system and not as a result of selling of using certain products.<sup>30</sup> This definition stipulated by the Law on Consumer Protection could formulate the vision, according to which the crime concerned should be framed into the category of crimes committed against consumers.

Nonetheless, we shall emphasise that the same Law stipulates that any legal entity or individual authorised to perform entrepreneurial activity may become a vendor or a provider [Article 1 of the Law on Consumer Protection]. Therefore, criminal protection of consumers’ lawful rights and interests is a priority in the circumstances of Article 255 of the PC RM [Deceiving the Clients]. In case of this offence, the social relations related to the accuracy of assessment or measuring operations related to the circulation of social/utility goods or services shall be primarily defended. However, in case of an offence covered by Article 241<sup>1</sup> of the MCC, the social relations on practicing financial activity under lawful conditions shall be protected, assuming the registration and/or obtaining an authorisation (licence). Likewise, from the peculiarity of Article 241<sup>1</sup> of the MCC, only the individual who reached the age of 16 years can be the crime subject, while the legal entity cannot be the crime subject. *Per a contrario*, when a client deceiving offence has been committed, we see mandatory presence of one of the perpetrator’s specific qualities, *in concreto*, distributor, vendor or provider. The latter is acquired following the state registration and issuance, as per the law, of a licence,

<sup>27</sup> Brînza S., Stati V. *Criminal Law Treaty. Special Part. Vol. II*. Chisinau: Central Printing House, 2015, p. 98; Stati V. *Economic crimes...*p. 190.

<sup>28</sup> Stati V. *Economic crimes...*p. 190-191.

<sup>29</sup> Verbatim report of the Parliament of the Republic of Moldova plenary held on 11.05.2012. The draft Law on Amendments and Addenda to the Contravention Code of the Republic of Moldova No.218-XVI of 24.10.2008 (Art. 263<sup>1</sup>, 400) available at: <http://www.parlament.md>.

<sup>30</sup> Law No. 105 dated 13.03.2003 on Consumer Protection, Published in: Official Gazette, 2003, No. 126-131, in force as of 27.10.2003.

authorisation or entrepreneurial patent.<sup>31</sup>

Finally, having regard to the criminal law codification principle (mentioned in the jurisprudence of the Constitutional Court of the Republic of Moldova<sup>32</sup>), the Legislature introduced legitimately Article 241<sup>1</sup> into Chapter X “Economic offences” of the Moldovan Penal Code Special Part.

### 3. Subgroup legal subject-matter

We shall underline further in the research that due to the wide range of the national economy, which incorporates different spheres of activity, the domestic criminal doctrine covers economic crimes based on subgroup legal subject-matter. This is an intermediary category between the generic legal subject-matter and the special legal subject-matter. Therefore, the social relations regarding the practice of entrepreneurial activity are included in the subgroup legal subject-matter of crimes referred to in Article 241 (Illegal practice of entrepreneurial activity), 241<sup>1</sup> (Illegal practice of financial activity), 242 (Entrepreneurial pseudo-activity), 242<sup>1</sup> (Handling an event) and 242<sup>2</sup> (Fixed bets) of the PC RM.<sup>33</sup>

Likewise, we shall bear in mind that in light of the provisions of Article 1 para. (1) of Law No. 845 dated 3 January 1992 on Entrepreneurship and Enterprises, the entrepreneurial activity is regarded as an activity aimed to manufacture products, execute works and render services, carried out by citizens and their associations independently, on their own initiative and name, at their own risk and under their material property with the purpose to secure a continuous source of proceeds.<sup>34</sup> In the opinion of Doctrinaires N. Rosca and S. Baies, entrepreneurial activity is more limited than economic activity, as the former does not count for the activity of employed and self-employed people nor does it count for the consumption of tangible property.<sup>35</sup> In the same sequence, doctrinaire V. Stati mentions that entrepreneurial activity (business activity, commercial activity) is one of the types of economic activity.<sup>36</sup>

Therefore, we shall bear in mind that entrepreneurial activity is one of the economic activities, being a part-whole correlation. In the foreign legal doctrine, it is concluded that “economic activity” and “entrepreneurial activity” are not equipollent, as not all economic activities are oriented towards deriving proceeds; thus, it is possible that economic activity is carried out to secure conditions for the existence of society, individuals and the state.<sup>37</sup>

According to some more detailed approaches, entrepreneurial activity is a type of independent economic activity oriented towards deriving regular proceeds following the use of assets, manufacturing of products (goods), rendering services or any other legal activity, carried out at its own risk.<sup>38</sup> Entrepreneurial activity is the activity carried out by legal entities or individuals and can be described by the following features: 1) is practiced independently; 2) is practiced at own risk 3) is oriented towards deriving proceeds; 4) is oriented towards deriving regular proceeds; 5) is practiced in any of the following economic forms: use of assets; marketing of goods; execution of works; rendering services.<sup>39</sup>

<sup>31</sup> Stati V. *Economic crimes*...p. 494.

<sup>32</sup> Decision of the Constitutional Court No. 25 of 13.10.2015 to check the constitutionality of certain provision of Government Decision No. 79 of 23.01.2006 approving the List of narcotic and psychotropic substances and plants containing such substances detected in illicit trafficking and their quantities. Published in: Official Gazette of the Republic of Moldova, 2016, No. 13-19

<sup>33</sup> Stati V. *Economic crimes*... p. 24.

<sup>34</sup> Law No. 845 of 3.01.1992 on Entrepreneurship and Enterprises, Published in: Parliament Gazette of the Republic of Moldova, No. 2/33 din 1994, in force as of 1.05.1992.

<sup>35</sup> Roşca N., Baieş S. *Business Law. Third Edition*. Chisinau: Central Printing House, 2011, p. 50.

<sup>36</sup> Stati V. *Criminal liability for insolvency related crimes*. Chisinau: CE USM, 2003. p. 20.

<sup>37</sup> Aistova L.S. *Theoretical and practical problems of qualification of illegal entrepreneurship - Art. 171 of the Criminal Code of the Russian Federation*. Abstract of dissertation for the degree of candidate of legal sciences. St. Petersburg, 2001, p. 13; Shishko I. V. *Economic offenses*. St. Petersburg: Legal Center Press, 2004, p. 300.

<sup>38</sup> Polovnikova N.V. *Legal regulation of entrepreneurial activity: civil and financial and legal aspects*: Author's abstract of the dissertation for the degree of candidate of legal sciences. Yekaterinburg, 2008, p. 11.

<sup>39</sup> Karpovich O.G. *Criminal law protection of entrepreneurial activity in Russia and in European countries*: Author's abstract of the dissertation for the degree of Doctor of Law. Moscow, 2003.62 p. eleven; E.S. Votyakova *The history of the development of criminal legislation on crimes in the field of entrepreneurial activity*. Published in: Topical issues of legal sciences: Materials of the International correspondence scientific conference (Perm, March 2012). Chelyabinsk: Two Komsomolets, 2012, p. 77-79.

#### 4. Conclusions

Summarising *the aforementioned*, we shall highlight that the crime generic legal subject-matter referred to in Article 241<sup>1</sup> of the PC RM is the social relations on national economy based on economic activity principles.

Likewise, we shall mention that financial activity is a category of entrepreneurial activity. *In ultima ratio*, we shall conclude that the crime referred to in Article 241<sup>1</sup> of the PC RM is validly assigned to the subgroup of crimes committed in the area of entrepreneurial activity and, legitimately, is placed after the Illegal practice of entrepreneurial activity (Article 241 of the PC RM).

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