

**PROSECUTION AND PUNISHMENT OF THE "DARK CRIME" OFFENCES:  
THE WHITE-COLLAR CRIMINALS SHOULD KNOW THAT THE COLLAR  
OF THE PERPETRATOR OF THE OFFENCE IS NOT "WHITE"**

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This paper's subject stems from the desire and need to deal with the wide - spread and grave phenomenon of Dark of Crime offences by law offenders, from a constitutional-legal standpoint. Economic Crime in Moldova, as everywhere in former Soviet republics, has risen dramatically since the fall of the Soviet Union.

There are about 300 criminal groups and 35 criminal families which control the economic, political and social performance of the country. The monthly traffic of heroin alone is estimated at up to 150-200 kg, and the estimated number of drug addicts has risen from 3,000 to 60,000. Just in 1998, their number grew by 5 times in comparison to 1997. The annual volume of the drugs business in Moldova is estimated at \$200-250 m, this figure exceeds annual direct foreign investment in Moldova by 3.5-4 times. Moldova has been transformed into a corrupt and kleptocratic state, with a mafiotic psychology and culture and an amoral nepotism. How else, if not through corruption and lobbyism. The problem of the non-payment of debts can be easily solved with criminal structures playing the role of informal courts, for 50% of the sum. Drug trafficking In addition, on the territory of Moldova there are four channels of drug trafficking. The legislation of Moldova does not even define the term "racket", that no special measures are envisaged as regards crimes, and that there is no special system and measures adopted as regards the taxation of gambling for example. Certain legal provisions have become more constraining in Moldova. It is estimated that only 2-3% of the white-collar crimes are reported to the Israeli Police, because the handling of these offences is finalized inside the organizations and because crimes are sophisticated and hard to discover. Capital in Israel approaches the rate of 15% of the Gross Domestic Product. About the black capital – 40% of the Israeli public are involved in tax evasions, about 50 billion \$ are in circulation in the black market. The damages of fraud criminality in Israel are at a rate of about 1 billion \$ whereas the financial damage from scam offences is 24.1% of the total damage of about 3.5 billion \$ and since 2001 the total damage of about 13.5 billion \$.

Israel and Moldova have made the first steps in order the need to cope with money laundering phenomenon. Thus, measures are required for both countries for the fighting with money laundering: Punishment by fine for perpetration in the Law is in order, to increase origin offences, report bar, entities obligated to report, concentrating entity of data pool expanding of the duties of Money Laundering Prohibition Authority as a regulator and with authority to assign fines, etc.

**Keywords:** *Dark of Crime offences, constitutional-legal standpoint white-collar criminal groups and criminal families, measures as regards crimes, certain legal constraining, black capital, tax evasions damages of fraud criminality, cope with money laundering phenomenon, Punishment by fine, origin offences, report bar, entities obligated to report, concentrating entity of data pool expanding of the duties of Money Laundering, Prohibition Authority, regulator.*

**УГОЛОВНОЕ ПРЕСЛЕДОВАНИЕ И НАКАЗАНИЕ ЗА «ТЕНЕВЫЕ ПРЕСТУПЛЕНИЯ»:  
БЕЛОВОРТНИЧКОВЫМ ПРЕСТУПНИКАМ СЛЕДУЕТ ЗНАЕТ, ЧТО ЦВЕТ ВОРОТНИЧКА  
СУБЪЕКТА ПРЕСТУПЛЕНИЯ ВО ВСЕ НЕ БЕЛЫЙ**

Тема данного исследования продиктована желанием и необходимостью рассмотрения довольно распространённого и важного феномена совершённых правонарушителями «тёмных преступлений» с конституционно-правовой точки зрения. Число экономических преступлений в Молдове, как и повсюду в бывших советских республиках, значительно возросло после распада Советского Союза.

В стране насчитывается около 300 преступных группировок и 35 криминальных семей, контролирующих функционирование её экономической, политической и социальной жизни. Ежемесячный трафик одного только героина оценивается в пределах 150-200 кг, а расчётное число наркоманов возросло с 3 000 до 60 000. В одном только 1998 году их число увеличилось в пять раз по сравнению с 1997 годом. Годовой объём наркобизнеса в Молдове оценивается приблизительно в 200-250 миллионов долларов, что превышает годовые прямые иностранные инвестиции в Молдову в 3,5-4 раза. Молдова превратилась в коррумпированное и клептократическое государство с мафиозной психологией и культурой и безнравственным кумовством с помощью ничего иного, как коррупция и лоббизм. Проблема неуплаты долгов может быть запросто решена с помощью криминальных структур, играющих роль неофициальных судов, за 50% от суммы долга. В дополнение к этому, на территории Молдовы имеются четыре канала наркооборота.

До настоящего времени молдавское законодательство даже не дало определение термину «рэкёт»; в отношении подобных преступлений не предусмотрены специальные меры, отсутствуют специальные системы мер,

принятых, к примеру, в отношении налогообложения азартных игр. Некоторые правовые нормы стали в Молдове более ограниченными.

По оценке, израильской полиции сообщается всего лишь о 2-3% беловоротничковых преступлений, поскольку разбирательство по данным преступлениям завершается внутри организаций, а сами преступления являются запутанными и труднораскрываемыми. Капитал в Израиле достигает уровня 15% внутреннего валового продукта. Что же касается чёрного капитала, то 40% израильского общества уклоняются от уплаты налогов, а на чёрном рынке в обороте находится около 50 миллиардов долларов США. Убытки от мошенничества в Израиле составляют около 1 миллиарда долларов США, в то время как финансовый ущерб от преступных афер составляет 24,1% общей суммы убытков в 3,5 миллиарда долларов США; с 2001 общая сумма убытков составила примерно 13,5 миллиарда долларов США.

Израиль и Молдова предприняли первые шаги в борьбе с феноменом отмывания денег. Таким образом, для обеих стран необходимы меры для борьбы с отмыванием денег: наказание штрафом за нарушение закона; увеличение числа преступлений, относимых к исходным; отчётные коллегии; учреждения, обязанные делать донесения; концентрация субъектов электронного каталога; расширение обязанностей Органа по запрету отмывания денег как регулятивного органа, наделённого полномочиями налагать штрафы, и пр.

**Ключевые слова:** «тёмные преступления»; конституционно-правовая точка зрения; беловоротничковые преступные группировки и криминальные семьи; меры в отношении преступлений; определённые правовые ограничения; чёрный капитал; уклонение от уплаты налогов; ущерб от мошеннических преступлений; борьба с феноменом отмывания денег; наказание штрафом; исходные преступления; отчётные коллегии; учреждения, обязанные делать донесения; концентрация субъектов электронного каталога; расширение обязанностей Органа по запрету отмывания денег; регулятивный орган.

#### **Data on white-collar criminality in Israel and Moldova**

The annual number of crimes in Israel (APPENDIX) is around 50,000 of reported crimes every year, with an average of about 5,400 crimes annually in fraud and abuse crimes. This is the only datum we have, (The Dark of Crime) and the widest one.

The reason is that it is estimated that only 2-3% of the white-collar crimes are reported to the Israeli Police, because the handling of these offences is finalized inside the organizations and because crimes are sophisticated and hard to discover.

Economic Crime in Moldova, as everywhere in former Soviet republics, has risen dramatically since the fall of the Soviet Union.

According to the World Corruption Perception Index 2011, published by Transparency International organization, the classification of the Israeli score was 5.8 and the Republic of Moldova score was 2.9. Public sector is on a scale of 0-10, where 0 means that a country is perceived as highly corrupt and 10 means that a country is perceived as very clean [5].

Organized crime comes down to politicians and businessmen that have connections with different types of criminals. It is important also to mention the white collar mafia that works with the so called legal thieves, of the Republic of Moldova, requesting protection taxes from businessmen and controlling a certain part of the economy.

Mobilizing sound reforms, statehood consolidation, democratic and civilian control over the security sector actors. It is almost impossible to look forward to the emergence of a democratically environment, of the rule of law and an effective market economy in Moldova unless the security environment (domestic and foreign) will be shaped up to reflect these values and priorities as well. The main obstacle at this point is to give a clear sense of strategic priorities in reforming the so-called "force structures" of the state [2].

#### **Financial damages - World organization revenues loses**

Survey participants estimated that the typical organization loses 5% of its revenues to fraud each year. Applied to the estimated 2011 Gross World Product, this figure translates to a potential projected global fraud the vast majority (77%) of all frauds in our study was committed by individuals working in one of six departments: accounting, operations, sales, executive/upper management, customer service and purchasing. This distribution was very similar to what we found in 2010 study [4].

#### **Estimation of the damages in Israel**

Several years ago, the Commissioner of Customs and VAT estimated that the amount of black capital in Israel reaches about 17 billion \$. This estimation is based on the assumption that the amount of black capital

in Israel approaches the rate of 15% of the Gross Domestic Product. The origin of a significant portion of the black capital which is estimated at 2-5% of the Gross Domestic Product is in laundering of capital procured by criminal activity [14, p.62-63]. According to the data of PCA firm of Bar-Lev from 2009, only 4% (12% in 2001) of the complaints transferred for handling of his firm with the suspicion of fraud, have been turned over to the police, the data do not include complaints of private individuals [15]. In a report made by Fahn, Kane and Co. PCA firm, it has been estimated that the scope of damage caused to the Israeli economy due to frauds reaches some 3 billion \$ annually. From an examination of dozens of white-collar offences perpetrated in Israel in 2001, the firm investigators arrived at a sum of about 250 million \$ of damages due to frauds. Based on the estimation that only 10-15% of the frauds are being exposed, it indicates the immense sums of money under discussion. Here are some examples:

The black capital – 40% of the Israeli public are involved in tax evasions, about 50 billion\$ are in circulation in the black market.

In tender coordination – the antitrust authority has no sufficient information regarding the financial damage caused to the economy, however according to the data of the Accountant General, the scope of purchases made by the Governmental Ministries in 2005 for instance by the purchasing units through tenders was at about 7 billion \$. Operating from a very flexible standpoint according to which 20% of the bids submitted in the governmental tenders have been set after coordination between the competitors and the coordinated bid is 20% higher, we are then talking about over 1.2 billion \$ annually.

#### **Forgery, foreign currency, credit cards and identity cards**

Forgery of document through advanced and sophisticated technological means of criminal factors (such as: ID cards, passports, visas, car licenses, insurance policies, credit cards, checks and more) serves mainly for perpetration of fraud and scam offences, but also for other offences, such as: capital laundering, impersonation and acts of terrorism. Forgery of documents allows for fraud offenders to take over lands, perpetrate mortgage frauds, loans by false identity and more. As of end of 2011, there have been 5.8 million active credit cards in Israel. The annual turnover of credit card purchases for 2011 was at 1.1 billion \$. The affair of Discount Bank ATM card forgery, which cause damage of at least 2 million \$, is not the first case of fake ATM cards [6]. According to the data of the Ministry of Internal Security from 2012, the damages of fraud criminality in Israel are at a rate of about 1 billion \$ whereas the financial damage from scam offences is 24.1% of the total damage of about 3.5 billion and since 2001 the total damage of about 13.5 billion \$ [9].

#### **Prosecution and punishment of white-collar offences in Israel, Punishment and law enforcement policy**

Beccaria (1764) claims in regards to deterrence, that the punishments' power of deterrence will increase the more the following conditions are maintained: a. the punishment must be made public. B. the certainty of the punishment is more important than its severity, as the more a criminal is aware that his chances of being revealed are higher, he would be more deterred from perpetrating offences. C. the punishment should be as close as possible to the perpetration of the offence [14, p.20-21].

At least in Israel, the legal proceeding in white-collar offences takes years, so that the deterrence effect is essentially flawed.

#### **Following is a verdict that encompasses a complex of rulings of judging white-collar criminals:**

Criminal file 346/04 in the Jerusalem District Court 13/09/2004, state of Israel though Jerusalem district attorney versus Abraham (Ben Daniel) Lugassi. The defendant Abraham Lugassi, has been convicted according to his admission in a corrected indictment in perpetration of 72 offences of aggravated act of fraud, an offence according to section 415 of the penal code 1977 which states: a perpetrator of fraud is liable to a sentence of 3-years in prison, and if the offence is aggravated – his is liable to 5 years of imprisonment. Argument for punishment – stated by the judge:

In criminal file (Jerusalem) 1001/01 state of Israel versus Abraham Piro and Barty Bibs (unpublished): *“therefore, even if we suppose that the funds have eventually served the passengers (note: the fraud money has been returned) it is not enough to rule out the formulation of the offence. The Court dealt with this in criminal file (Tel-Aviv) 360/96 state of Israel versus Zeev Bashan, correction 1366 (3) 2001. And it states there in section 2.2 as follows: ... the return after the fact is not enough to change the question of existence of basis for the offence”.* (Also, see file 8573/96 Mordechai Markado about stock manipulation, versus the state of Israel verdict 51(5) 481, regarding the aggravated circumstances, see Y. Kedmi, on the criminal law,

1988, vol.1, 4141; according to 446/01 Max Rodman versus the state of Israel, verdict 56(5), 25). The sum under discussion in this file where the defendant has been convicted is at 250,000 \$, however in instances where the sophistication and the misrepresentation was vast, the courts have been more severe in punishment of the criminals of these offences, (criminal appeal 9788/03 state of Israel versus David Golan et al. (unpublished) even if the sums were lower.

This has been expressed by the honorable judge T. Strasberg-Cohen, in criminal appeal 2910/94 Yeffet versus the state of Israel, verdict 84 (2), 221: "even sophisticated acts done by an individual in the fields of society and economics, can cause severe damage to the economy and the private person ... the various financial offences are amongst such acts". And furthermore, on the need to make the punishment more severe in financial offences that harm the general public has been said by the honorable judge A. Barak (his title at that time) in criminal appeal 624/80 Weiss Ernest Ltd. versus the state of Israel, verdict 35(3), 311, as follows: "***the white-collar criminals should know that the collar of the perpetrator of the offence is not 'white' and it is as the collar of any burglar and thief, where as one is robbing the State Fund and the other the funds of an individual...***". (Also see criminal appeal 4735/03 Alon Zabari versus the state of Israel). More severe punishments have been leveled in many instances amongst which criminal appeal 2243/98 (9 years) to Romanovski, (12 years) to Arad versus the state of Israel (unpublished) who sold apartments to others and took by fraud about 600,000\$.

A similar case to the one before me was in criminal appeal 6676/95 Avi Shiloah versus the state of Israel (Savir, 47(10), 146). In that case the appellant has taken by fraud 650,000\$ worth of goods ... and the court sentenced him with 3 years of active prison term, and the appeal for it has been rejected (see also criminal appeal 7082/93 Boaz Kedmi versus the state of Israel, Savir, 43, 17. Here the defendant has been sentenced to 4 years of active prison term and a 50,000\$ fine for formation of straw companies which purchased goods by credit and sold them in cash).

In criminal file 1249/00 (Jerusalem) state of Israel versus Lionid Roitman, the defendant has been sentenced with 10 years of active prison term and a 300,000\$ fine, the honorable judge Y. Tzur states: "this is a severe case of the defendant's abuse of the harsh distress of hundreds of new immigrants from Russia who asked to come to Israel ... and cause d damage to hundreds of families with the total sum of 18 million \$ after the monies given to him were lost and not returned" [12].

This paper's subject stems from the desire and need to deal with the wide - spread and grave phenomenon of **Dark of Crime offences** by law offenders, from a constitutional-legal standpoint. White-color criminality is an isolated circumstance and thus is not considered a fertile research subject. Law offenders and criminal organizations invade and continue to try and fortify their hold of the governmental, local and general state authorities to make an illegal profit.

Thus making new steps to reduce the phenomenon of crime, the guiding line in this article is to understand the need of necessary steps in fighting white collar criminality in Israel and the Republic of Moldova- by punishment and law enforcement policy.

**Moldova** has also been fighting corruption within the framework of the MOLICO program of the COE since August 2006. This project against corruption focuses on money laundering and the financing of terrorism in the Republic of Moldova. The program, which lasts for three years and has a budget of €3.5 million (US\$5.4 million), essentially supports implementation of the National Anticorruption Strategy. Additionally, in December 2006, Moldova and the United States signed a US\$24.7 million Millennium Challenge Corporation Threshold Program agreement, which aims at reducing government corruption.<sup>56</sup> According to the World Bank report *Doing Business 2008*, Moldova ranks 92nd out of 178 states, compared with 88th out of 175 for the previous year. Although the cost of doing business in Moldova is close to the world average, and Moldova has succeeded in reducing its taxes, especially on income and labor, certain legal provisions have become more constraining. The problem of the non-payment of debts can be easily solved with criminal structures playing the role of informal courts, for 50% of the sum. Drug trafficking In addition, on the territory of Moldova there are four channels of drug trafficking. The monthly traffic of heroin alone is estimated at up to 150-200 kg (the wholesale price of 1 kg of heroin amounts to \$1,500 in Pakistan, \$10,000 in Turkey and \$40,000 in England, where the retail price reaches \$120,000). In Moldova, clandestine labora-tories exist for producing drugs by local, much cheaper technologies, and this presents an essential threat to local, evidently poorer, populations. During the last five years, the estimated number of drug addicts has risen from 3,000 to



60,000. Just in 1998, their number grew by 5 times in comparison to 1997. The annual volume of the drugs business in Moldova is estimated at \$200-250m, this figure exceeds annual direct foreign investment in Moldova by 3.5-4 times. It is clear that the efficiency of the functioning of this sector is much higher. There are significant possibilities for corrupting state officials and consequently the list of narcotic and hallucinogenic substances proposed by the specialists of the Committee of Drug Control has undergone "essential modifications" from the moment of its adoption and publication in the *Official Monitor*. A number of substances which can be easily produced in Moldova have disappeared from the list. That is why the customs service does not have an elementary cinologic service (dogs which can detect drugs). That is why there does not exist any database regarding drug traffic, or a unique information system for the enforcement services. That is why criminal files do not "reach" the court (their total number diminished from 15 in 1996, to 10 in 1997 and 9 in 1998). That is why extremely expensive cars, with four levels of protection, are used for the transportation of drugs. Smuggling According to data from the customs service, the detected volume of smuggled goods grew from 2.7% of total exports/imports in 1997 to 10.6% in 1998. At the same time, the number of criminal files reaching the court has continually diminished and criminal files are closed (out of 28 open criminal files, not one was investigated in 1998). Data regarding the volume of illegal export/import transactions are even more relevant. A cross-check. In a short time, Moldova has been transformed into a corrupt and kleptocratic state, with a mafiotic psychology and culture and an amoral nepotism. How else, if not through corruption and lobbyism, could it be explained that the legislation of Moldova does not even define the term "racket", **that no special measures** are envisaged as regards prostitution, and that there is no special system adopted as regards the taxation of gambling [1, p.123-136].

**The need of required measures for the fighting with money laundering in Israel and Moldova- to cope with money laundering phenomenon.**

Israel and Moldova have made the first steps In order to cope with money laundering phenomenon. The model of handling the phenomenon in the US has been studied that constitutes a role model of fighting money laundering. The success of the United States can be learned about both from the vast amount of suits and convictions in the US due to A. a steep rise in money smuggling outside of the US; and B. an increasing use of non-bank financial entities for money laundering.

**World organization revenues loses**

Survey participants estimated that the typical organization loses 5% of its revenues to fraud each year. Applied to the estimated 2011 Gross World Product, this figure translates to a potential projected global fraud. The vast majority (77%) of all frauds in our study were committed by individuals working in one of six departments: accounting, operations, sales, executive/upper management, customer service and purchasing. This distribution was very similar to what we found in 2010 study [3].

**Estimation of the damages in Israel** - before-mentioned that the estimation is that only 10-15% of the frauds are being exposed, it indicates the immense sums of money under discussion [7]. According the black capital – 40% of the Israeli public are involved in tax evasions, about 50 billion\$ are in circulation in the black market.

**As we have seen, white-collar criminality constitutes an isolated phenomenon and therefore is not perceived as fertile field of research.**

**That paves the way through this Hypothesis: there is a positive essential relation between money laundering as a leading factor in white-collar criminality, and between essential adverse effect upon Gross National Product of Israeli and Moldovan economies.**

Origin offences are almost all the offences in the statute book, that produce profit for the offender such as, drugs, property, fraud, gambling, white slave trafficking, homicide, and others through which the white-collar criminal gains the laundered capital and the need arises for laundering of the criminal property, while the laundered money allows for and finances the continuation of the criminal activity. This current turnover, that grows and increases in scope, leads to the establishment of organized crime. It can be said, generally, that the offence of money laundering process is accompanied more than once by further offences that are perpetrated in order to allow the laundering. These offences are called "accompanied offences" and amongst them can be such offences as bribery and fraud.

The scope of funds from illegal sources that are being laundered each year bestows criminal factors with influence and power that are employed for bribing of judges, affecting decision makers in all political levels, purchasing advanced measures that are used once more for perpetrating offences etc

**In order to cope with this phenomenon, the model of handling the phenomenon in the US has been studied that constitutes a role model of fighting money laundering.** From 1970 when the Bank Secrecy Act (BSA) has been legislated and until today a unique experience has been accumulated in the US with no parallel to it elsewhere, in all matters of fighting money laundering. **Israel makes its first steps. Same is Moldova.** The success of the United States can be learned about both from the vast amount of suits and convictions in the US due to A. a steep rise in money smuggling outside of the US; and B. an increasing use of non-bank financial entities for money laundering.

**Thus, in relation to the Money Laundering legislation in Israel and Moldova - the following measures are required for both countries for the fighting with money laundering:**

#### **A. Punishment**

From reviewing section 3 of the Money Laundering Prohibition Law in Israel it is revealed that the legislator set a maximal punishment of 10 years for the offence of money laundering or a **fine** 150 times Average salary in Israel and Moldova

**Thus, a change of the section of fine for perpetration of money laundering offence in the Law is in order, as follows:**

Transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conducts such a financial transaction which in fact involves the proceeds of specified activity shall be sentenced to a fine of not more than 150 times Average salary in Israel and Moldova twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

It is important to mention that the prison sentences set by the law are the high bar, nonetheless the punishment set by the law teaches a judge the level of severity of the act from the viewpoint of the legislator.

#### **B. Origin offences**

The called for change is that the list of origin offences would be unlimited and would include all the criminal offences including tax and VAT offences!

In second addition to the Israeli law, a list of origin offences is detailed that the funds produced from these are laundered. This is a closed list that mainly includes offences from the Penal Code. The American Law also includes a closed list of origin offences that includes over 170 offences including: drug trafficking, weapon smuggling, murder, frauds, acts of terrorism, tax offences and more. It can be stated that there are countries around the world that chose not to limit the origin offences and included in them all the criminal offences, such as England. In Australia for example, tax offences have also been included whereas in Israel they have not. To the opinion of the researcher it might create the false impression of severe political public opinion – that stealing from the public is not considered as stealing from an individual person. The meaning is that income tax money evaded is not considered illegal money.

#### **C. Foundation of the offence**

Section 4 of the Israeli Law states that one taking action upon property with the knowledge that it is a forbidden property is perpetrating an offence. For this matter the section defines "knowledge" as reduction of turning a blind eye – as it is meant in section 20(c)(1) of the Penal Code. From reviewing protocols of committees discussing the Law it appears that the addition of this subject has been made upon the request of banks which feared to find themselves involved in a process of money laundering as a result of an omission of some clerk. In this instance the Legislator has also chosen to submit to a pressure group. Therefore:

**To the opinion of the researcher**, after assimilating the report system and acquiring experience that began in the banking system in Israel, it is warranted that the Legislator cancels the matter of turning a blind eye, and to this matter, the term the Israeli Legislator would use is "Knowledge", and it shall be determined that:

*"Knowledge can be shown by proving willful blindness, deliberate ignorance, or a conscious attempt to avoid knowledge, "legitimate" business people who tried hard not to "know" about their client's illegal activities....." [13].*

#### **D. Report bar**

It can be seen that the sums of report set in Israel are much higher than the United States: the obligation of reporting set forth in the US is 10,000\$. Every sum that is higher than this ceiling must be reported to the Authorities. In Israel it has been determined (by a bank decree) that the bar for deposit/withdrawal from a bank account in NIS and/or in foreign currency is at least 14,000\$, as well as changing money including conversions that are above 6 times Average salary in Israel and Moldova and issuing a bank check for sum

surpassing 20 times Average salary in Israel and Moldova. Additionally, many clauses have been added that are related to the bar of reporting of actions higher than about a half of Average salary in Israel and Moldova from countries according to addition 4 of the Decree (countries from the black list of FATE, as well as other countries including the Palestinian authority, Libya, Iran, etc.) would be obligated to report and that is in order to financially hurt terrorist organizations. In the fourth addition of the Israeli Law it has been determined that the sums of money obligated by a report upon entering the country are of about 10 times Average salary in Israel. Therefore, the called-for action is: any sum higher than the ceiling of 4 times Average salary in Israel and Moldova must be reported to the Authorities as well as upon issuing a bank check of a sum above 10 times Average salary in Israel and Moldova. Needless to say that the higher is the report bar the less "white-collar criminals" will get caught in the net of the Law.

#### **E. Entities obligated to report**

The sector of diamonds as well as real-estate and car merchants that are abundant in "turning a blind eye" in Israel are to be added to list of sectors that are obligated to report, as in the US these sectors are obligated to report. The cancellation of exemption from obligation of reporting is necessary.

#### **F. Concentrating entity of data pool**

Recommendation: in Israel, the reports are delivered to the Money Laundering Prohibition Authority from various financial institutions (banks, portfolio managers, insurance agents, stock exchange companies, provident funds and more) regarding different actions performed by their customers. Additionally, an obligation of reporting has been set regarding transfers of funds from those entering and departing from the country. The Authority has been authorized according to section 30 of the law to deliver information to three factors only: a. The Israeli Police; B. the General Security Service; C. parallel entities in other countries. In Israel, on the other hand, enforcement agencies are required to deliver an explained request. It can be stated that in Israel there is an absurd situation in which information would be delivered to FinCEN as part of the global cooperation and from there to the IRS whereas the Israeli income tax has no access to the information. In this situation, it might be that an Israeli citizen would be convicted in the US with money laundering that is related to tax offences that he has perpetrated in Israel. Therefore: the establishment of an entity that would concentrate an information pool and that would deliver it to the investigation entities the vast information collected is inevitably an important tool in the fight against the plague of money laundering in Israel and Moldova. Investigators from all enforcement authorities would make an extensive use of the information that is there (just as in the US in the FinCEN) for their current work almost with no limits. The scope of the phenomenon of money laundering and the financial situation make it necessary for a change with a cost of damage to privacy.

#### **G. Expanding of the duties of Money Laundering Prohibition Authority as a regulator and with authority to assign fines.**

The fact that Authority like Money Laundering Prohibition Authority is not a regulatory entity adversely affects the fight with money laundering, enforcement and deterrence. And therefore:

- A change is required for the Money Laundering Prohibition Authority in Israel, or any authority in Moldova would be responsible for determining the required reports from the various entities, including who is supposed to report, the way of reporting, scope and more. Section 17(b) of the Money Laundering Prohibition Law in Israel states that the one responsible for these duties is the Minister that the reporting entity is under his responsibility while advising the Minister of Justice and the Minister of Internal Safety.
- Another essential amendment that is recommended is granting of authority to the money laundering prohibition authority such as the authority assigned to the FinCEN in the US [8], to assign fines to entities that violate the obligation of reporting, safeguarding documents or other orders. Thus for example, in case of the Sovereign Bank that was under proceeding on March 3, 2002, the bank has been assigned with a fine of 700,000\$ for non-reporting on financial transactions (Currency Transaction Report – CTR), for a period extending for two years. On this matter, the Israeli Legislator has chosen to assign the authority to a committee that is authorized to assign a financial sanction. For example: Stock Exchange members have been assigned with financial sanctions who have not upheld the above decree (and fine with about 50,000\$).

*Thus, this paper, having a theoretical as well as a qualitative and practical framework, allows for dealing with the approach of money laundering.*

*This paper's subject stems from the desire and need to deal with the wide-spread and grave phenomenon of Money Laundering in Israel and the Republic of Moldova. This article focuses on how to understand the phenomenon of Money Laundering by criminal elements in Israel and the Republic of Moldova, And to produce the necessary steps to reduce this phenomenon by constitutional - legal standpoints.*

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*Prezentat la 08.09.2014*