

THEORETICAL AND PRACTICAL ASPECTS ON TAX EVASION AS A PHENOMENON OF THE UNDERGROUND ECONOMY

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Abstract

The importance of this topic is given by the high number of cases that have as object crimes in the field of tax evasion. The black economy ends up having significant shares in the domestic product of states, with negative consequences for the budget year, especially in conditions of economic constraints or against the background of economic recession. Tax evasion is very high in Romania and deprives the budget of substantial amounts, according to information provided in a report of the Fiscal Council. The number of cases involving economic crimes is constantly increasing, as a result of the balance sheets of the Public Ministry or other institutions that have a role in preventing and combating tax evasion.

Thus, the paper aims to show the negative effects generated by tax evasion and the underground economy for Romania, but also for the other member states of the European Union. At the same time, it is necessary to be aware of the fact that limiting these negative phenomena can be one of the solutions to restore the public financial balance for Romania.

Keywords: tax evasion, underground economy

JEL classification: E62, H26, H32

1. Introduction

Tax evasion is an economic and social phenomenon, of major importance, which both Romania and all Member States of the European Union face, but in different proportions. In Romania, after the accession to the European Union, by intensifying the commercial exchanges, the tax evasion was extended, the natural persons and the legal persons diversifying, the means of evading the fiscal legislation.

Tax evasion is a crime characteristic of the business environment, which consists in intentionally evading the payment of tax obligations, due under the law by each taxpayer. Under these conditions, by evading the fulfillment of fiscal obligations, the state budget is affected by the lack of these sums of money, which could be collected for the formation of state revenues.

Tax evasion is the non-fulfillment in bad faith by taxpayers of tax obligations, and their actions or inactions in the field of reference fall under the Criminal Code and the Code of Criminal Procedure, as well as all other legal provisions governing the subject matter.

In his work “Tax Frauds and Crimes”, Ion Stan stated: “Romanian legislation is a mosaic of uncoordinated laws in terms of sanctions. Crimes are not always clearly defined, and the technique of their application is not detailed and precise, which makes difficult not only the task of the bodies called to apply them, but also the research in the field of taxation and the trial of contraventions ... Each law has its own system especially penalties, own procedure and completely different terms of appeal and recourse from one tax to another, so that errors and confusions are easily committed by the officials of the Ministry of Finance. ”

Tax evasion is the main cause of the reduction of tax revenues. It is a negative economic phenomenon, present in all the world's economies, in proportions variables, but high, determined by a multitude of factors, including psychological [9].

2. Tax evasion and the underground economy

There are authors who have turned their attention to the analysis of the underground economy and even made measurements of it. Among them we mention: Alm, Martinez-Vasquez and Schneider, respectively Schneider and Klingmair [8].

The phenomenon of tax evasion is closely related to the level of the underground economy. Although the underground economy comprises a wide range of activities outside the law, some of them are the basis for determining the extent of tax evasion.

Tax evasion, as part of the underground economy, included in the great mass of all activities that make up economic crime, arose with the advent of trade, from the desire to avoid paying part of the profit to the authorities.

The underground economy exists in all countries of the world, in different proportions in GDP. The definition given by Pierre Pestieau, according to which the underground economy represents "the set of economic activities that are carried out outside criminal, social or fiscal laws or that escape the inventory of national accounts", is considered by specialists as the most comprehensive definition of the underground economy. .

A large dimension of the underground economy has as main negative effects the decrease and decrease of the growth rate of the official economy. For Romania, the statistics are worrying regarding this phenomenon, and the negative effects of the high size of the underground economy are strongly felt both in terms of GDP and in terms of tax revenues.

The strategic objectives of ANAF in the period 2019 - 2022 involve priority actions in the following directions: increasing voluntary compliance, reducing tax evasion and the underground economy, improving the relationship with taxpayers, increasing the efficiency of collection, modernizing the agency.

By Emergency Ordinance no. 74/2013, within the National Agency for Fiscal Administration, the General Directorate for Fiscal Anti-Fraud (DGAF) was set up, which is a continuation of the activity carried out by the Financial Guard (abolished public institution) having as main attribution customs.

Until the change of a common perspective of citizens and civil society, based on voluntary compliance with the fulfillment of tax obligations, I believe that tax evasion will be a source of rapid enrichment for many individuals in a short time, without too much investment and with not very significant risks.

According to Law 241/2005, the following acts committed for the purpose of evading the fulfillment of fiscal obligations constitute offenses of tax evasion [13].:

- hiding the property or taxable or taxable source. In practice, this phenomenon is encountered either by evading the payment of taxes, fees and contributions due to the state by not registering activities for which the law provides for the obligation to register; either by evading the payment of tax obligations, in whole or in part, by not declaring taxable income.

- the omission, in whole or in part, of the highlighting, either from the accounting documents or from other legal documents, of the commercial operations performed or of the revenues performed.

- highlighting, in the accounting documents or in other legal documents, the expenses that are not based on real operations or highlighting other fiscal operations.

- alteration, destruction or concealment of accounting documents, memoranda of taxing or electronic fiscal cash registers or other means of data storage, in order to evade the fulfillment of tax obligations by the taxpayer.

- keeping double-entry accounting records, using documents or other means of storing data, in order to evade the fulfillment of tax obligations.

- avoidance from carrying out financial, fiscal or customs verifications, by non-declaration, fiscal declaration or inaccurate declaration regarding the main or secondary premises of the verified persons.

- replacement, degradation or alienation by the debtor or by third parties of the seized goods in accordance with the provisions of the Fiscal Procedure Code in order to evade the fulfillment of fiscal obligations.

Schneider, who uses the term shadow economy for underground economics, has estimated in several works its annual size (as a percentage of gross domestic product), for many countries around the world, for various periods.

The underground economy has a negative impact on tax revenues, on gross domestic product and, implicitly, on economic growth. Obviously, this impact is all the stronger the larger the size of the underground economy. For these reasons, the issue of the causes of the underground economy becomes very important.

The fiscal policy measures promoted by the Romanian tax authorities, in the period 2007-2018 together with other factors, among which the quality of the management of state tax receivables and the degree of voluntary compliance with taxes, aimed to increase the volume of tax revenues.

The evolution of the taxation degree, in the years 2007, 2010 and 2018 is presented in table no. 1 [12].

Tabel nr. 1 The evolution of the taxation degree, in the years 2007, 2010 and 2018

Member States of the European Union	2007	2010	2018	Ranking 2018
Belgium	43,3	43,6	44,8	3
Bulgaria	31,6	26,1	29,9	26
Czech Republic	34,5	32,7	36,1	15
Denmark	46,4	45,0	45,1	2
Germany	37,8	37,3	40,1	8
Estonia	31,0	32,9	32,8	22
Ireland	30,8	27,8	22,6	28
Greece	31,8	32,0	38,9	10
Spain	36,5	31,3	34,7	18
France	42,7	42,3	45,6	1
Croatia	37,0	36,0	38,6	12
Italy	41,3	41,2	41,8	7
Cyprus	36,1	31,7	33,8	20
Latvia	28,3	28,4	31,0	24
Lithuania	30,0	28,4	30,2	25
Luxembourg	36,3	37,6	39,3	9
Hungary	39,4	37,2	37,6	14
Malta	32,8	31,9	31,8	23
Netherlands	35,5	35,5	38,7	11
Austria	40,7	41,1	42,3	5
Poland	34,6	31,4	35,2	16
Portugal	31,9	30,4	34,9	17
Romania	28,4	26,4	26,3	27
Slovenia	38,0	38,0	37,6	13
Slovakia	29,1	28,1	34,1	19
Finland	41,4	40,6	42,2	6

Sweden	45,2	42,9	43,8	4
United Kingdom	33,7	33,3	33,8	21
EU 27	39,0	37,9	40,2	
EU 28	38,1	37,3	39,2	

Source: www.ec.europa.eu

In the period considered, respectively the years 2007, 2010 and 2018, in Romania, the degree of general taxation, determined by reporting all taxes, fees and contributions collected by central and local public authorities, to the amount of GDP, registered a continuous decreasing trend, from 28.4% in 2007 to 26.3% in 2018. At EU27 level, the degree of general taxation increased in 2018 compared to 2007, by 1.2 pp.

The reduction in the degree of taxation can be appreciated as related to the decline of the real economy, with the continuous decline, in real expression, of the gross domestic product and, consequently, with the decrease of the base of taxation. Also, the evolution of the degree of taxation is determined by the evolution of the degree of collection of compulsory levies, in close connection with voluntary compliance of taxpayers with their payment.

Given that the degree of taxation is determined on the basis of tax revenues actually collected, its low level could be explained by a poor collection of taxes, fees and contributions and through a high level of tax evasion to which can be added the many tax facilities granted over time.

At the level of 2018, Romania is among the 3 states that registered a level of taxation below the threshold of 30% (Bulgaria - 29.9%, Ireland - 22.6%, Romania - 26.3%).

At a tax rate located, on the whole, below 30% of the domestic product gross, in Romania we cannot talk about excessive taxation. More, the current trend at national level is to reduce the level taxation.

The underground economy is a worldwide phenomenon of varying magnitude from one country to another, which can be seen by studying the dimensions of the underground economy, valued as a percentage of GDP.

At the level of the member states of the European Union, the analysis was performed based on the data presented by Professor Dr. Freidrich Schneider, University of Linz, according to the data in table no. 2 [6].

Analyzing the evolution of the underground economy as a share in GDP in 2007, 2010 and 2017, by comparing Romania and the average of the EU-27, we see a slight reduction in the size of this phenomenon, by about 4 pp, for our country, and for the EU-27 average of about 2 pp.

Tabel nr. 2 Underground economy expressed as a percentage of GDP in the Member States of the European Union, for the years: 2007, 2010 and 2017

Member States of the European Union	2007	2010	2017	Ranking 2017
Belgium	16,1	16,9	16,5	15
Bulgaria	26,6	26,2	22,9	4
Czech Republic	13,0	13,5	11,7	18
Denmark	11,2	13,0	11,7	19
Germany	8,9	10,6	10,4	23
Estonia	21,0	22,7	20,1	7
Ireland	11,4	12,3	9,6	24
Greece	20,9	23,1	24,8	2
Spain	18,7	21,3	20,3	6
France	10,8	11,8	11,7	20
Croatia	23,6	24,6	22,7	5
Italy	18,4	20,8	19,8	9

Cyprus	24,7	26,0	25,2	1
Latvia	19,8	20,8	18,0	14
Lithuania	23,8	24,1	19,7	11
Luxembourg	8,1	8,8	8,8	26
Hungary	19,7	20,7	19,8	10
Malta	23,2	23,5	18,6	13
Netherlands	8,8	9,4	8,8	27
Austria	6,4	7,6	7,1	28
Poland	22,5	21,5	19,9	8
Portugal	18,0	18,6	16,1	16
Romania	27,1	26,5	23,0	3
Slovenia	19,2	21,9	19,0	12
Slovakia	13,2	13,9	13,1	17
Finland	10,1	11,1	10,8	21
Sweden	9,6	10,3	10,7	22
United Kingdom	9,1	10,3	9,4	25
EU 27	17,36	18,21	16,79	
EU 28	17,67	18,50	17,06	

Source: prof. Dr. Freidrich Schneider, University of Linz [6].

Observing the data from table no. 2 it is counted that Romania, at the level of 2017, is in the 3rd place, followed by Bulgaria, with an underground economy valued at 23.0% of GDP. During the time period subject to analysis, 2007-2017, Romania managed to reduce the share of GDP of the underground economy by 4.1%, from 27.1% in 2007 to 23.0% in 2017.

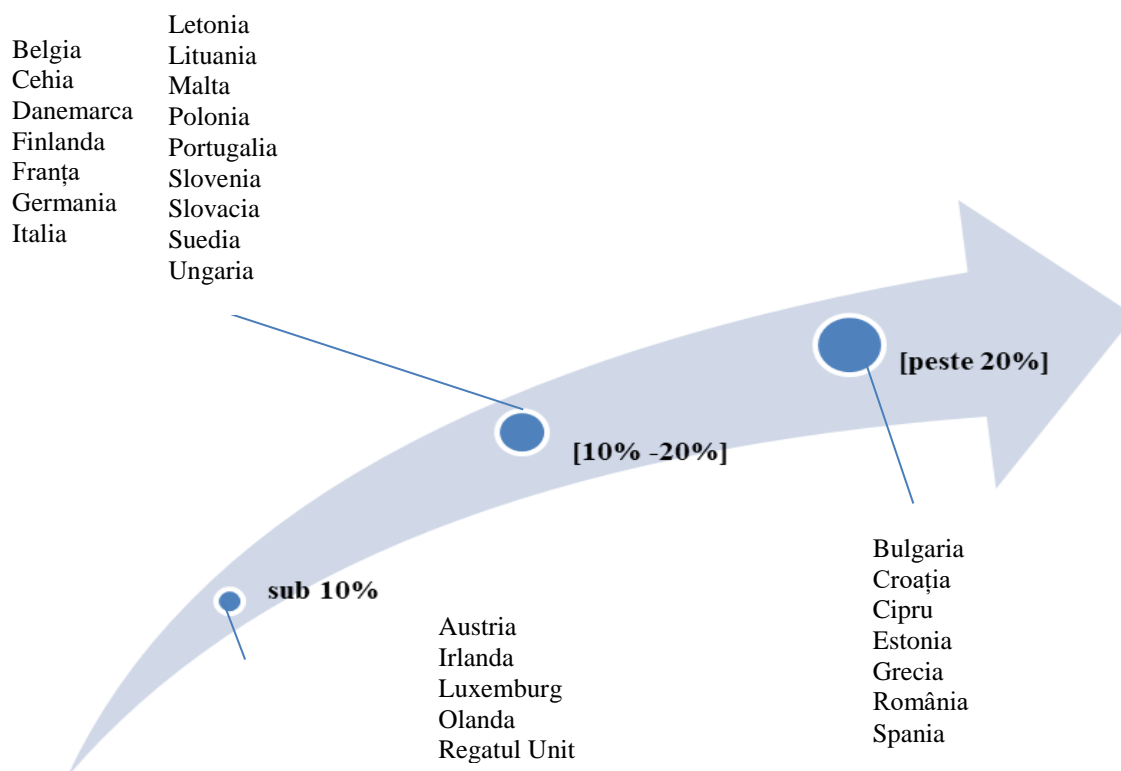


Figure no. 1. The level of the share in GDP of the underground economy in the member states of the European Union, at the level of 2017

According to the chart no. 1, it is observed that the share of GDP of the underground economy is less than 10% in only 5 EU Member States, and another 7 EU Member States have this share between 10% and 15%: Slovakia (13,15), Sweden (10.7%), Germany (10.4%), Czech Republic (11.7%), Denmark (11.7%), Finland (10.8%), France (11.7%).

According to the latest results of Professor Dr. Freidrich Schneider, University of Linz (9), the share of the underground economy in GDP is (table no. 3)

Table no. 3 **The underground economy expressed as a percentage of GDP in Romania and Bulgaria, in the period 2009-2019**

Countries Years	Romania	Bulgaria
2009	29,4	32,5
2010	29,8	32,6
2011	29,6	32,3
2012	29,1	31,9
2013	28,4	31,2
2014	28,1	31,0
2015	28,0	30,6
2016	27,6	30,2
2017	26,3	29,6
2018	26,66	30,84
2019	26,9	30,12

Sursa: prof. Dr. Freidrich Schneider, University of Linz, Austria, Sتمبر 2019

The graphical representation of the share in GDP of the underground economy for Romania and Bulgaria, in the period 2009-2019, is:

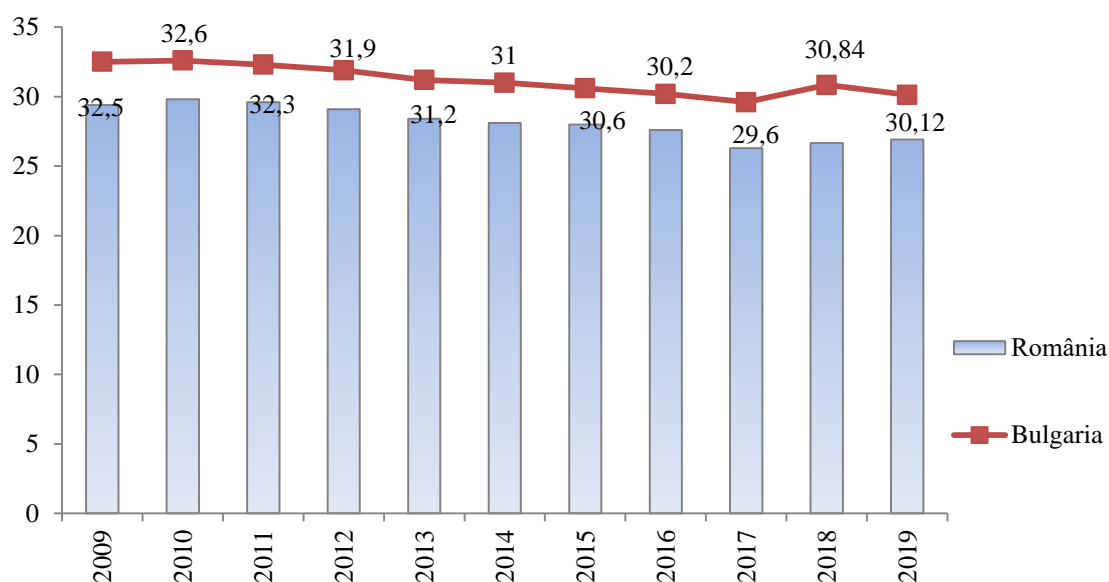


Chart no. 2 *The evolution of the black economy in GDP, in Romania and in Bulgaria, in the period 2009-2019*

Several methods can be used to estimate the underground economy, such as: MIMIC model (multiple indicators-multiple causes), DYMIMIC model (dynamic multiple indicators-multiple

causes), methodology of the National Institute of Statistics (INS). Schneider's estimates, based on the MIMIC model (multiple indicators-multiple causes).

3. Conclusionse

The relationship between taxpayers and tax units also has a major role in the process of combating tax evasion.

Although the phenomenon of tax evasion in the most common form involves hiding information or presenting it incomplete to the authorities, for economic entities to pay taxes and duties as low as possible, there is another form of tax evasion, which involves that, on the basis of fictitious transactions, economic entities to request sums of money from the state.

Although tax evasion cannot be eradicated, given the complexity of this phenomenon and the many forms in which it manifests itself, however, through the fiscal policy adopted, each Member State of the European Union acts to limit the phenomenon and its effects. Among the ways to combat scalar evasion are:

➤ increasing the voluntary compliance of taxpayers. According to the data provided by the Fiscal Council, in 2019, the degree of voluntary submission of tax returns was 94.7%. Registering an increase an increase of 0.3 p.p. (from 94.4% to 94.7%), compared to 2018. The degree of voluntary compliance with the payment of tax obligations was 86.6%. Compared to 2018, there was an increase of 0.2 pp. (from 86.4% to 86.6%). For example, in 2019, the single declaration was submitted by approximately 960,000 taxpayers, of which 80% used the Virtual Private Space (SPV) and 20% submitted the declarations on paper. At the same time, computer applications were developed, in order to complete and electronically submit the forms: • Form 209 “Declaration regarding the income from the transfer of properties”; • Form 222 “Informative declaration regarding the beginning/cessation of the activity of natural persons who carry out activity in Romania and who obtain incomes in the form of salaries and assimilated to salaries from abroad”; • Form 224 “Declaration regarding the incomes in the form of salaries and assimilated to the salaries from abroad obtained by the natural persons who carry out activity in Romania”.

➤ increasing the level of professional training of officials with fiscal control responsibilities;

➤ establishing a system of incentives for employees within the fiscal control bodies;

➤ the creation of the legal framework that would allow the bodies to verify all the operations performed at banks by taxpayers;

➤ establishing an optimal dimension of the share capital, so that in case of tax evasion the damages will be recovered immediately;

➤ exchanges of experience between tax officials in Romania and those in the Member States of the European Union, especially in the most economically developed countries.

The consequences of tax evasion harm both the state and the taxpayers, because the state does not receive the income necessary for its activity, and taxpayers bear higher taxes on lower incomes.

Tax specialists appreciate that reducing tax evasion and creating a balance between members of society contributes to the formation of a middle class of the population that accumulates most of their contribution. The opinions of specialists regarding the ways to combat tax evasion are unanimous in the sense of setting up a single control apparatus at central and local level, which has powers both from a procedural and a practical point of view.

4. Bibliography

[1]. **Achim, M. V.**, Corruption and the underground economy. Theories and studies, Cluj University Press, 2017, ISBN 978-606-37-0217-4, pp. 17-64;

- [2]. **Alm, J., Martinez-Vazquez, J. and Schneider, F.**, Sizing the Problem of the Hard-to-Tax, Contributions to Economic Analysis, Elsevier, 2004, no. 268, pp. 11-75;
- [3]. **Aniței Nadia Cerasela, Lazăr Roxana Elena**, Tax evasion between legality and crime, Universul Juridic Publishing House, Iași, 2016;
- [4]. **Brașoveanu, I.V., Obreja Brașoveanu, Laura**, “Correlation between Corruption and Tax Revenues in EU 27 ”, Economic Computation and Economic Cybernetics Studies and Research, no. 4, 2009b;
- [5]. **Brașoveanu, I.V.**, The underground economy and corruption: major problems of the Romanian economy, Theoretical and applied economics, Volume XVII (2010), No. 11 (552), pp. 68-80;
- [6]. **Medina Leandro, Schneider Friedrich**, Shedding Light on the Shadow Economy: A Global Database and the Interaction with the Official One, CESifo Working Papers, 2019, www.cesifo-group.org/wp;
- [7]. **Rădulescu Toader, Stela**, Tax evasion in Romania during the transition period, ASE, 2007, Bucharest;
- [8]. **Schneider, F. and Klinglmair, R.**, Shadow economies around the world: What do we know? Linz University, Working paper, 2004, no. 403;
- [9]. **Schneider, F.**, Shadow Economies and Corruption All Over the World: New Estimates for 145, Countries , Economics Journal, July 24, 2007;
- [10]. **Schneider Friedrich**, Shadow economies around the world with latest results (2019) for Romania and her Neighboring Countries: what did we learn over the last 20 years ?, September 2019, <http://www.econ.jku.at>;
- [11]. **Vîrjan Bogdan**, Edition 3, Tax evasion offenses, C.H. Beck, Bucharest, 2020;
- [12]. Taxation Trends in the European Union, Data for the EU Member States, Iceland and Norway, 2020 Edition;
- [13]. *** Law 214/2005 on preventing and combating tax evasion, with subsequent amendments and completions;
- [14]. *** LAW no. 55 of March 31, 2021 regarding the amendment and completion of Law no. 241/2005 for preventing and combating tax evasion;
- [15]. *** Law 227/2005 on the Fiscal Code;
- [16]. *** Law 207/2005 on the Fiscal Procedure Code.