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The interference of fiscal regulations with those in the criminal field. The right to silence and the right not to self-incriminate of a legal person in Romania[***]

ABSTRACT: In our approach, some aspects must be clarifies from the beginning, regarding a prerogative of the financial (fiscal) authority, but also of the tax system, respectively the *control function*. The Tax Procedure Code regulates the procedures by which the tax bodies verify the fulfilment by the persons subject to the tax law of the legal obligations. These procedures are the followings i.e. tax inspection, unexpected control, verification of the personal tax situation by the central tax body, anti-fraud control, and documentary verification. Each procedure is governed by specific rules and objectives. Also, the issues of taxpayer's right to present his point of view on the relevant facts and circumstances are going to be addressed, and of course, the taxpayer's obligation to cooperate versus the right to silence and plea-agreement.

KEYWORDS*:* fiscal procedure, criminal procedure, right to be heard, obligation to cooperate, right to silence.

1. Introduction

In our approach[1], some aspects must be clarified from the beginning, regarding a function of finance, but also of the tax system, respectively the *control function*[2]. The need for the control function of public finances stems from the fact that the funds of public financial resources belong to the whole society. The control function of public finances responds to the requirement imposed by society, aiming to ensure legality and increase economic efficiency through better management of public money. This implies the continuous supervision of the integrity of the public property by verifying the observance of the criteria on the basis of which the necessity and the opportunity of the public expenditures are determined, the observance of the obligations towards the budget, etc.[3]

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[1] The present topic was adressed within the project "Certain questions of the external, internal and criminal investigation of the criminal offences affecting the financial interests of the European Union (fraud, corruption, money laundering and other illegal activities against the financial interests of the EU) with special focus on the role of OLAF, EPPO, Eurojust, and Europol" (project number: 101015428 — EUINVESTIGUNIMISKOLC), and finalized with the publication of the paper: Cîrmaciu, D., Miheș, C., (2022) `Position of the Fiscal Authority in Criminal Proceedings, Plea Agreements at the Interface of the Criminal Tax Proceedings, Estimates in Tax Law, Self-Disclosure` in Farkas, Á., Dannecker, G., Jacsó, J. (eds.) *External, Internal and Criminal Investigations of Criminal Offences Affecting the Financial Interests of the European Union*, Budapest: Wolters Kluwer Hungary, pp.258-270.

[2] State control allows, for example, the detailed verification of the activity of the economic agent. In this regard see also Șaguna and Radu, 2018, p. 17.

[3] Cîrmaciu, 2010, p. 14.

The doctrine identifies the existence of different types of control, within the financial control, practiced by distinct control bodies. In the overall context of financial control, the tax control has its own specifics, given the tasks and purposes it fulfils.[4]

In the Romanian tax system, mainly a declarative system[5], the tax authorities receive control attributions in order to ensure that all taxpayers fulfil their obligations. The Tax Procedure Code regulates the procedures by which the tax bodies verify the fulfilment by the persons subject to the tax law of the legal obligations. These procedures are the followings i.e. tax inspection, unexpected control, verification of the personal tax situation by the central tax body, anti-fraud control and documentary verification.

This model of organizing the tax control aims at the efficiency, effectiveness of the verification, the tax bodies using their resources gradually, depending on the objectives pursued. Each procedure is governed by specific rules and objectives, thus respecting the principle of independence of procedures. According to this principle, different prerogative tax bodies are provided, but the taxpayer is also provided with the guarantees specific to each of them.

It should be noted that with regard to the conduct of the tax authority during the performance of the tax control activity. But, in general, in the entire activity of administration of tax receivables must comply with a number of obligations, such as the obligation to objectively examine the tax situation of the taxpayer subject to the tax inspection, the obligation to take into account all the edifying circumstances for determining the tax state of affairs, the analysis of all the elements specific to an individualized case[6], or the obligation to exercise the right of assessment within the limits of reasonableness and fairness[7].

Also, before taking the decision based on the tax inspection report, the tax authority is obliged to provide the taxpayer/payer with the opportunity to express his point of view on the relevant facts and circumstances in making the decision. The right to be heard is an essential element of *the right to defense and the right to good administration*[8], and is also an important procedural right of the taxpayer. Observance of this right allows the clarification of the factual and legal situation, leading to the finding of the truth and the possible avoidance of erroneous decisions that would have the effect of formulating costly appeals[9].

Several considerations are also required in the case of another general principle of conduct in the administration of taxes, duties, contributions due to the general consolidated budget, respectively that of *the obligation to cooperate*. The taxpayer/payer is obliged to cooperate with

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[4] Boța, 2002, p. 48.

[5] See also Anghel, 2020, p. 354.

[6] To take into account the *obligation of diligence* of the tax body, obligation of careful analysis of the investigated case.

[7] Thus, the tax body will ensure a fair proportion between the aim pursued and the means used to achieve it - see Art. 6(2) of the Tax Procedure Code.

[8] Consider the content of the right to good administration provided in Art. 41 of the Charter of Fundamental Rights of the European Union [Online]. Available at: https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:12012P/TXT&from=IT (Accessed: 5 November 2021).

[9] The right to be heard also has some *limitations* expressly provided by the legislator, if:

a) the delay in making the decision determines a danger for ascertaining the real tax situation regarding the execution of the taxpayer's / payer's obligations or for taking other measures provided by law;

b) the amount of the tax receivables is to be modified by less than 10% of the value of the previously established tax receivable;

c) the information presented by the taxpayer / payer, which he gave in a statement or in a request, is accepted;

d) enforcement measures are to be taken;

e) the decisions regarding the accessory tax obligations are to be issued.

the tax body to determine the tax situation by presenting the facts known by him, in full, according to reality. And by indicating the means of proof known to him, a collaboration in the administration of evidence. Unlike the old regulation[10], the Romanian legislator provided a limitation of this obligation, namely *the compliance with the provisions in criminal matters and criminal proceedings*. This express limitation supports the content of the presumption of innocence, the right to silence and non-self-incrimination[11]. However, it is expressly provided by the criminal legislation, the right to silence does not belong exclusively to the criminal field. From the jurisprudence of the ECHR, this right is also applicable in administrative matters, including in the field of administration of taxes, fees, contributions, when the taxpayer risks a criminal sanction. In this context, the right to silence also refers to the taxpayer's right not to make self-incriminating information available to the authorities. If the tax authority, by exercising the right to address third parties for obtaining information about a taxpayer, enters possession of data/documents that may incriminate the taxpayer, it is not considered that any prejudice to the right to silence.[12]

The result of the tax inspection is recorded in writing in a tax inspection report, which presents the findings of the tax inspection body from a factual and legal point of view and their tax consequences. [13] Whenever it is necessary documents regarding findings made at the taxpayer's/payer's premises or at its secondary offices, such as minutes concluded during unannounced or on-the-spot checks, etc. are attached to the tax inspection report.[14]

Also, the tax inspection body has the obligation to notify the competent judicial bodies in connection with the findings made on the tax inspection and which could meet constitutive elements of a crime, under the conditions provided by the criminal law. In this situation, too, the tax inspection body has the obligation to draw up a minute signed by the tax inspection body and by the taxpayer subject to the inspection, with or without explanations or objections. This minute represents an act of notification and is the basis of the notification documentation of the criminal investigation bodies. The provisions of Article 132 of the Tax Procedure Code are thus in harmony with those of Article 61 of Criminal Procedure Code, the obligation to notify the criminal investigation bodies provided in the Tax Procedure Code has the same content as the one stipulated in the criminal law. Article 61 paragraph 1 point (a) establishes that:

> whenever there is a reasonable suspicion that a crime has been committed, they are obliged to draw up a report on the circumstances found: a) *the bodies of state inspections*, of other state bodies, as well as of public authorities, public institutions, or other legal persons of public law, for crimes that constitute violations of the provisions and obligations whose observance they control, according to the law.

The concluded report constitutes an act of notification of the criminal investigation bodies and cannot be subject to control through administrative litigation.

The report drawn up by the tax body will include those aspects, facts that the inspection body considers as being able to meet the constitutive elements of a crime – the tax body mentioning the

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[10] G.O. No. 92 of 3003 Tax Procedure Code, repealed with effect from 01.01.2016.

[11] Art. 10(4) of Criminal Procedure Code, according to which ‚before being heard, the suspect and the defendant must be informed that they have the right not to make any statement'.

[12] The right to silence is also not infringed if, on the basis of a legally ordered search, documents are taken from the taxpayer. We note that even in this case, the documents will be obtained without the actual participation of the taxpayer. About details regarding the right to silence in Romania, please see: Miheș, 2019, pp. 10-24.

[13] Except for the situation regulated in Art. 145(1) of the Tax Procedure Code.

[14] See: Direcția Generală Coordonare Inspecție Fiscală (no date).

elements on which the suspicion is based. In addition, even the Constitutional Court notes that, in essence, the minutes are an official document recording certain facts or legal acts. The bodies provided by Article 61 paragraph 1 points (a)-(c) of the Code of Criminal Procedure, drawing up the minutes, records in detail the facts, listing the elements on which it is based i.e. personal findings, statements, documents, etc. [15]

2. The plea agreement, theoretical and practical approach

The plea agreement, inspired by other contemporary legal systems, has generated controversy and ambiguity both in judicial practice and in the literature, but even so, it proves its effectiveness in the case of financial crimes in respect of which it should be consider recovering the damage.

We note that, in an analysed file, was concluded the plea agreement with the defendant T. R. having as object the recognition of the commission of the deed and the acceptance of the legal framework for which the criminal action was initiated, respectively the commission of the crime of tax evasion in continuous form, referred to in Article 9 paragraph 1 point (c) of Law No. 241 of 2005, with the application of Article 35 paragraph 1 of the Penal Code (250 material documents).

From the evidence administered in the case, it resulted that during February 2015 – December 2016, the defendant, in order to evade the payment of tax obligations, repeatedly and based on the same criminal resolution, ordered the registration in the company's accounting records of tax invoices which unrealistically certifies expenses related to the acquisition of goods from a company (X SRL).

The damage caused to the state budget (through the tax advantages obtained by the defendant's company, respectively the right to deduct expenses with purchases made and the reduction of the taxable base when calculating the profit tax, but also through the illegal exercise of the right to deduct VAT) was set at 280,000 lei. From the documents submitted to the case file, it was noted that the defendant paid part of the damage, 85,000 lei (to the civil party, A.N.A.F.). Defendant T.R. filed an application with the Prosecutor's Office Besides The Bihor Court to initiate a plea agreement.

The punishment established as a result of the agreement between the prosecutor and the defendant T. R. for committing the crime of tax evasion in a continuous form for which the criminal action was initiated is 1 year and 6 months imprisonment with the suspension of the execution of the sentence under supervision. The established term of supervision is two years from the date of finality of the decision.

The plea agreement concluded with the defendant stipulates, at the same time, the prohibition, as a complementary punishment, of exercising the rights to be elected to public authorities or any other public office and to hold a position involving the exercise of state authority for a period of two years from the finality of the sentence, as well as the prohibition as an accessory punishment of exercising the rights to be elected in public authorities or any other public office and to hold a position involving the exercise of state authority, from the finality of the sentence until upon the execution or consideration as executed of the main punishment.

The agreement further provides that, during the term of supervision, defendant T.R. will perform unpaid work for the benefit of the community for a period of sixty days.
The criminal investigation file and the plea agreement were sent to the Bihor Court.

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[15] In this regard, see the Constitutional Court, Decision No. 198 of 2016 [Online]. Available at: https://lege5.ro/gratuit/gezdeojzgi4q/decizia-nr-198-2016-referitoare-la-respingerea-exceptiei-de-neconstitutionalitate-a-dispozitiilor-art-114-alin-4-din-codul-de-procedura-penala (Accessed: 6 November 2021).

As this document is drawn up outside the criminal proceedings, the report cannot be *a means of proof.* The Constitutional Court considers that the minutes drawn up under the conditions provided by Article 61 of the Code of Criminal Procedure may constitute "testimony in the prosecution", the bodies listed in the norm acquiring the quality of 'witnesses'.[16]

In this sense, we also highlight a Decision of the Constitutional Court, No. 72 of 2019 by which the exception of unconstitutionality raised by the parties was admitted ... in a criminal case and it was found that the provisions of Article 233/1 paragraph 2 and 3 of G.O. No. 92/2003 regarding the Tax Procedure Code[17] (our note the old Code) and of Article 350 paragraph 1 of Law No. 207 of 2015 on the Tax Procedure Code are unconstitutional. Also, the exception of unconstitutionality raised by the same parties in the same file was admitted, finding that the phrase '*which constitutes means of proof*' from the content of Article 233/1 paragraph 5 of G.O. No. 92 of 2003, with reference to paragraph 2 and 3 of the same articles is unconstitutional. In the same sense, the exception of unconstitutionality raised by the parties in the same file was admitted and finds that the phrase *"which constitutes means of proof"* from the content of Article 350 paragraph 3 of Law No. 207 of 2015 with reference to paragraph 1 of the same article is unconstitutional. In essence, after setting out the substantive and formal arguments, we conclude that the texts and the phrase 'which constitutes evidence' are unconstitutional, which is why they cannot be corroborated by the provisions of the Code of Criminal Procedure applicable to evidence. In this context, *the Court concludes that the activity of tax verification carried out before the beginning of the criminal investigation and materialized in a report cannot constitute a means of proof in the sense regulated by Article 97 paragraph 2 point (e) from the Code of Criminal Procedure.*

As we also pointed out, this report is only an act of notification of the criminal investigation bodies and not a means of proof. Instead, according to the provisions of the Code of Criminal Procedure, respectively of the Tax Procedure Code[18], the criminal investigation body has the competence to order, after starting the criminal investigation, to carry out a tax verification completed by drawing up a report or a finding according to Article 172 paragraph 9 of the Code of Criminal Procedure, in which case the report, respectively the finding report constitutes a means of proof according to Article 97 paragraph 2 point (e) from the Code of Criminal Procedure.

That is why those texts were declared unconstitutional.

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[16] For the purposes of the Convention for the Protection of Human Rights and Fundamental Freedoms.

[17] Article 233/1 Collaboration with criminal investigation bodies

(1)In the situation where there are solid data or indications regarding the preparation or commission of some offenses concerning goods provided in with the subsequent amendments and completions, which fall within the scope of application of the excise, the criminal investigation bodies may carry out activities of ascertainment, research and preservation of evidence.

(2) In the situation provided in para 1 the criminal investigation bodies immediately request the bodies with control attributions within the National Agency for Tax Administration to carry out tax verifications according to the established objectives.

(3) At the request of the criminal investigation bodies, when there is a danger of disappearance of evidence or change of a factual situation and it is necessary to urgently clarify some facts or circumstances of the case, the designated staff of the National Agency for Tax Administration performs tax checks.

(4) In duly justified cases, after the beginning of the criminal investigation, with the approval of the prosecutor, the National Agency for Tax Administration may be requested to carry out tax verifications, according to the established objectives.

(5) The result of the verifications provided in para. (2) - (4) shall be recorded in the minutes, which constitute means of proof. The minutes do not constitute a title of tax claim within the meaning of Art. 110.

[18] According to Art. 350(2) of the Tax Procedure Code, *in duly justified cases, after the beginning of the criminal investigation, with the prosecutor's approval, may be requested that N.A.F.A. perform tax controls, according to the established objectives.*

In conclusion, the Constitutional Court found that the mentioned provisions and the phrase '*which constitute means of proof*' in these texts cannot be interpreted and applied in conjunction with the provisions of the Code of Criminal Procedure on incidental means of evidence. On the contrary, a tension is revealed between the content of the aforementioned texts and Articles 97 and 100 of the Code of Criminal Procedure. Consequently, the court notes that these legal texts disregard the overall logic of the Code of Criminal Procedure on probation.

The Court also notes that the new Code of Criminal *Procedure eliminated the institution of acts prior to the commencement of criminal proceedings* (Article 224 of the Code of Criminal Procedure of 1968), so that even the criminal investigation body can no longer draw up a report notes the performance of preliminary acts which could constitute evidence. Therefore, the minutes drawn up by the tax authorities, although compatible with the Code of Criminal Procedure of 1968, cannot currently be used as a report on the completion of preliminary acts, since they are no longer regulated by the new Code of Criminal Procedure, but may constitute only an act of notification of the criminal investigation bodies in accordance with Article 61 paragraph 5 of the Code of Criminal Procedure[19].

We also specify that, during the event 'Justice 2020-professionalism and integrity'[20] of the chief prosecutors of the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anticorruption Directorate, the Directorate for the Investigation of Organized Crime and Terrorism and the prosecutor's offices in addition to the courts of appeal, the issues regarding the documents drawn up by National Agency for Fiscal Administration (hereinafter: NAFA) were debated, if these minutes, acts of tax inspection fulfilled prior to the notification of the criminal investigation body, may constitute evidence in the criminal process. The issue was clarified by referring to the rules established by the Code of Criminal Procedure and the Decision of the Constitutional Court No. 72 of 2019. But the following issue was also discussed whether the relations provided to NAFA by the suspect or defendant i.e. explanatory notes, memoranda, etc. may or may not be used against him. The undisputed solution to the content of the right to non-self-incrimination is that they cannot in any case be used against the suspect or defendant.

Returning to particular issues regarding the tax inspection and the right of the tax authority to establish tax claims, we must point out that in light of the amendments to the Tax Procedure Code[21], a new case of suspension of the limitation period of the right to establish tax claims was introduced, namely

> during the period between the date of communication to the criminal investigation bodies of the report of the notification of the criminal investigation bodies or of the report drawn up following the request of the criminal investigation bodies addressed to the tax bodies to make findings regarding the facts that constitute violations of the dispositions and obligations whose observance is also controlled by the date of the final solution of the solution of the criminal case.

The new case of suspension takes into account the situation in which the tax authorities notify the criminal investigation bodies starting from the reasonable suspicion regarding the commission

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[19] For details, see the reasoning of the decision, *in extenso*.

[20] See the minute of the meeting [Online]. Available at: http://inm-lex.ro/wp-content/uploads/2020/04/Minuta-intalnire-procurori-sefi-sectie-Bucuresti-9-10-martie-2020.pdf (Accessed: 6 November 2021)

[21] Law No. 295 of 2020 for the amendment and completion of Law No. 207 of 2015 on the Tax Procedure Code, as well as the approval of some fiscal-budgetary measures, published in the Official Gazette of Romania No. 1266 of 21.12.2020.

of a crime of tax evasion. This provision must be analyzed taking into account the provisions of Article 131 and 145 Tax Procedure Code, according to which, if during the tax inspection there is a reasonable suspicion regarding the commission of acts that could meet the constitutive elements of a crime, the inspectors will draw up the act of notification of the criminal investigation bodies, without concluding an inspection report, respectively tax decision regarding the tax receivables concerned by the notification.[22]

Analyzing the regime of the acts of notification of the criminal investigation bodies, it is noticed that the Romanian legislator emphasizes the difference between the administrative-tax acts regulated by the Tax Procedure Code[23] and the category of the minutes. It is nderlying the notification of the criminal investigation bodies by which the tax bodies ascertain factual situations which could meet the constitutive elements of a crime. As well as the minutes concluded at the request of the criminal investigation bodies through which the damage is assessed. (The latter are not tax administrative acts within the meaning of the Tax Procedure Code, even if by these acts the tax body estimates/evaluates the amount of the damage. As we have mentioned, they have the legal nature of notification documents.

Based on these minutes, the tax body organizes the tax record of the amounts representing the damage entered in these minutes, distinct from the record of the tax receivables. The taxpayer/payer or other interested person may pay the amounts entered in the minutes or, as the case may be, the claims of the tax body entered in the documents by which a civil party was constituted in the criminal proceedings. It is considered that this record formula was established in order to ensure the necessary framework for the application of the causes of impunity and reduction of penalties provided in Law No. 241 of 2005 for preventing and fighting against tax evasion.[24] Whenever, by the documents issued by the judicial bodies e.g. the criminal investigation body, the court, it results that the person who made the payment does not owe the amounts paid, they are refunded, the right to restitution being established on the date of communication of the act by the judicial body.[25]

3. Statistical trends and conclusions

The statistical perspective highlights the following situation regarding the involvement of anti-fraud inspectors in the investigation of economic and financial causes: 896 reports findings drawn up, of which 690 with low degree of complexity, 128 with medium degree of complexity and 78 with a high degree of complexity; 738 financial investigations for unavailability of goods; approximately 511/514 million lei total amount of damages established; approximately 127 million lei value of unavailable goods; 269 reports drawn up in cases finalized through plea agreements; 450 cases in which finding reports were drawn up and the closing was ordered.

During the criminal investigation, after the formal filing of charges, the defendant and prosecutor can conclude an agreement as a result of the defendant plea agreement.

The usefulness of this special procedure provided in Art. 478 and the following in Criminal Procedure Code also consists in the efficiency of the way of completing the criminal investigation

[22] These documents will be drawn up only for those amounts that do not constitute the object of the notification.
[23] According to Art. 1 point (1) of the Tax Procedure Code 'the tax administrative act - the act issued by the tax body in the exercise of the administration attributions of taxes, fees and social contributions, for establishing an individual situation and in order to produce legal effects towards the one to whom it is addressed'.
[24] Law no. 241 of 2005 for preventing and fighting against tax evasion published in the Official Gazette of Romania No. 672 of 27.07.2005. See also Anghel, 2020, p. 468 and Pătrăuș and Popa, 2017, pp. 92-116.
[25] Art. 150(4) of the Tax Procedure Code.

activity and of the strategy adopted by the prosecutors in order to avoid expensive and long-lasting criminal proceedings.

Regarding the fight against financial interests crimes of the European Union[26], although 2020 was an atypical one from the point of view of the functioning of the entire Ministry of Public affected by the epidemiological crisis, the prosecutors of the National Anticorruption Directorate fulfilled their duties effectively in the field fight ahains the fraud phenomenon and protection of the EU's financial interests, by conducting criminal prosecutions and resolving a significant number of cases concerning the procedures for accessing and using funds from the general budget of the EU, the courts being implied into a considerable number of of cases.

In 2020, the prosecutors of the National Anticorruption Directorate[27] had 1623 cases under investigation compared to 1934 in 2019, being registered 606 new cases having as object crimes against the financial interests of the U.E. (compared to 749 in 2019), registering a slight decrease in the number of complaints in this area.

Also, in 2020, prosecutors solved 668 cases compared to 858 in 2019, remaining in progress at 31.12.2020 a number of 955 cases compared to 1076 at the end of 2019.

In 2020, the prosecutors of the National Anticorruption Directorate prepared 58 indictments (70 indictments in 2019), regarding a total number of 105 defendants sent to trial, of which 85 individuals and 20 legal entities, a decrease compared to the previous year when there were 169 defendants. The prosecutors also drafted 46 plea agreement relating to 46 defendants, of which 41 natural persons and 5 legal persons, for which the competent courts were notified. In this respect, there was an increase in the number of agreements concluded compared to previous years, given that in 2019 38 were registered and in 2018 only 12 such agreements.

At the level of the central structure of the National Anticorruption Directorate, in the field of protection of the financial interests of the EU, 16 indictments were drawn up, 2 by the Anti-Corruption Section and 14 by the Anti-Corruption Section assimilated to corruption offenses.

At the same time, the prosecutors concluded 8 plea agreements, one by the Anti-Corruption Section, 6 by the Anti-Corruption Section and one by the Service for Prosecuting Cases of Military Corruption.

The territorial structures of the National Anticorruption Directorate have drawn up a number of 42 indictments and 38 plea agreements, as follows:

- Territorial Service Alba Iulia, 10 indictments
- Territorial Service Bacau, 1 indictment and 10 plea agreements
- Territorial Service Brasov, 0 indictments / plea agreement
- Territorial Service Cluj, 3 indictments and 6 plea agreements
- Territorial Service Constanța, 8 indictments and 3 plea agreements
- Territorial Service Craiova, 2 indictments and 8 plea agreements
- Territorial Service Galati, 2 indictments and one plea agreement
- Territorial Service Iasi, 3 indictments and 4 plea agreements
- Territorial Service Pitesti, 0 indictments/plea agreement
- Territorial Service Ploiesti, 2 indictments
- Territorial Service Suceava, 6 indictments
- Territorial Service Tg. Mures, 0 indictments / plea agreement

[26]See Raportul privind activitatea desfasurata de Directia Nionalaa Anticoruptie in 2020 (Report on the activity carried out by the National Anticorruption Directorate) https://www.pna.ro/obiect2.jsp?id=487 (Accessed: 8 November 2021).
[27] About the competence of the criminal investigation bodies in Romania, see also, Mirișan, 2019, pp. 186-187 and Mirișan and Mirișan, 2019, pp. 198-199.

- Territorial Service Timisoara, 1 indictment and 6 plea agreements
- Territorial Service Oradea, 4 indictments

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