

STATE CONTROL OVER COMMERCIAL TRANSACTIONS WITH GOODS FROM PRECIOUS METALS

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The paper illustrates a synthetic analysis of the Romanian perspective related to commercializing process of those goods manufactured from precious metals or only film coated with these metals, namely gold, silver, platinum and palladium, in pure or alloy with at least 10 % precious metal. Our approach is considering the legal regime established, in this respect in Romania, in the context of European Union (EU) integration. The purpose of this paper is to emphasize the way in which Romanian legal authority exercised through a institutional system is guiding the operations with precious metal objects, with additional references to some identified limitations, or weaknesses. Furthermore, our attention was also focused on suggesting few indications that might improve the inland conditions in the future.

Key-words: precious metal, alloys, European norms, products marking/stamping, examination.

INTRODUCTION

From a general perspective, we might define control as the permanent or regular analysis applied to an activity or situation with the purpose of supervising its evolution, but also for improving it [1]. However, the term of control might also be perceived as “the assembly of mechanisms implemented by leaders at all levels of a certain domain in order to manage the operations that take place within that specific area” [2]. Even though the clear purpose of any control activity is to rectify and moreover, to improve the quality of operations, most of times, people feel uncomfortable with these examinations [3-4]. It seems that such practices disrupt their normal activities. Our analysis is placed under the shadow of the institutional imprint [5]. From this point of view, we will focus our attention on the particular aspects related to the enforcement of legal norms, in order to provide the necessary conditions for a proper activity within the area of commercial transactions with precious metal goods. Such practices consist in compliance with laws, regulations, contracts and procedures in force. In addition to the inland legal framework we might evidently nominate the EU directives which have the purpose to establish the necessary general provisions in order to facilitate both, the freedom of establishment for service providers and also the freedom of movement of services, while maintaining a high level of consumer protection. Taking into account the particular case of Romanian institutions, it is important to highlight the major role of National Authority for Consumer

Protection (NACP), which is currently authorized by National Bank of Romania [6], to analyze, hall-mark the precious metals and furthermore, to survey the metals, the existing technical equipment and specialized personnel by creating a self – financed activities in this area [7].

THE NEED FOR COMPLYING WITH INSTITUTIONS AND RESPECTING THE TRADE REGIME OF PRECIOUS METAL OBJECTS

In Romania, the regime of precious metal trading process is places in the shadow of the legal framework provided by Government Emergency Ordinance no. 190/2000 [6] and its implementing rules [8], with all amendments and subsequent additions, which introduce more compulsory rules in this regard. Over time it operated a large series of regulations [9-15].

Commercial reasons

After EU membership the changes operated on the institutional framework were not very significant. However, it is important to highlight that in the licensing business process there is no need for notification issued by business organizations [16]. In such conditions, the access to a service activity or its practice is not determined anymore by “direct or indirect involvement of competing operators, including consultative groups with respect to authorization granting” [17]. The above mentioned notification had the purpose to prove that secondary headquarters are organized and equipped according to operations specifications, and moreover, that qualified personnel in the field is used. Its disposal

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might be explained only by the fact that it violated Art. 14 Section 6 of Directive 2006/123/EC on services within the internal market, article 13 paragraph 1, letter g of the Romanian Government Emergency Ordinance no. 49/2009 (given to transpose Directive 2006/123/EC) concerning the freedom of establishment for service providers and the freedom to furnish services in Romania, respectively [18].

Health reasons

EU regulations are mainly oriented towards protecting consumer's health. From this point of view all formal institutional initiatives are focused on production but also on trading process of those jewelry containing nickel alloy, because many people are allergic to this carcinogenic item. Furthermore, some silver items from Far East are covered with cadmium, in order to bring them an appealing design, which is also a carcinogenic element. Directive 2004/96/EC [19] amending Directive 76/769/EEC related to restrictions imposed for entering market and use of nickel in "piercing" jewelry as to adapt Annex I to technical progress it is stipulated that are permitted only those items which are inserted into pierced parts of the human body, only if the percentage of nickel released from these jewelry with rods is less than 0,2 µg/square inches/week (migration limit) [19]. Determination of nickel [20] can be done only in the chemical laboratory analysis according to EN1811: 1998 Standards Association adopted by Romania, which includes several procedures within the reference method in order to release the nickel from those products which are intended to come into direct and prolonged contact with skin. In terms of cadmium danger, its level might be determined by the spectral analysis.

Compulsory marking

Jewelry articles made of precious metals which might be found within commercial channels need to be marked and to respect marking requirements. Each jewel must have applied the title of the mark and its own certification label [21-22]:

- The title mark illustrates a conventional sign which differs depending on the content of precious metal (Table 1), expressed in thousandths (1/1000), according to securities laws of Romania. It does not register at NACP.

Table 1 The title mark applicable to articles of precious metal

No.	Name of the precious metal	Values expressed in thousandths (1/1 000)
1	Gold	375 ; 500 ; 585 ; 750 ; 833 ; 900 ; 916 and fine gold 999
2	Silver	750 ; 800 ; 875 ; 916 ; 925 and fine silver 999
3	Platinum	950
4	Palladium	950

- The own guarantee mark is established by the domestic manufacturer, importer and/or retailers and it requires to be registered at NACP. This is included as follows: a) for gold in an ellipse; b) for silver in a rectangle; c) for platinum and other platinum metals in a diamond. The content of its own guarantee mark consists of an alphanumeric code [23], where the letters illustrate the symbol of Bucharest county / municipality in which the company is professional / social based, and numbers which represent the serial number of the mark set by NACP (Figures 1-4).

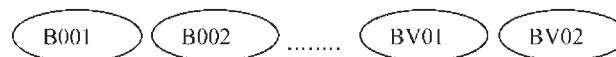


Figure 1 Own guarantee mark for Gold



Figure 2 Own guarantee mark for Silver

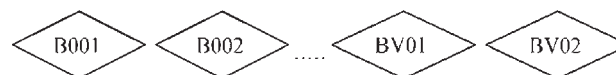


Figure 3 Own guarantee mark for Platinum



Figure 4 Own guarantee mark for Palladium

Caption: These patterns of guarantee marks are used by manufacturers, importers and sellers of precious metal objects. Symbols: B = Bucharest, BV = Brasov.

- The certification mark shall be applied by NACP if the economic operator is not authorized or unwilling to place its own guarantee. This involves the embossing of the brand image on objects and jewelry made of precious metals by pressing or laser engraving.

The certification mark is represented by a unique symbol associated to the type of precious metal, alongside the precise specification of the precious metal title reflected in arabic numbers, as well as the registration number of the NACP certification mark (Example: Figures 5-8) [22].

Besides marking obligations related to product sales economic operators must also issue a quality certificate showing the precious metal content and other features.

EXERCISING PUBLIC CONTROL

National Authority for Consumer Protection is the only institution that has the power to control trade relations with precious metals and jewelry in order to see if legal provisions are respected. As deviations from specific legislation we might nominate [24]:

- **Infringements:** falsifying the title marks, own guarantee marks or certification marks, using the title of trademarks, of its own guarantee marks or false certifi-

cation marks, even unregistered marks. Those goods which have a false or falsified mark are confiscated;

- **Transgressions:** unauthorized conduct operations with precious metals, sale, or exposure for sale of pre-





375 ‰	
500 ‰	
585 ‰	
750 ‰	

Figure 5 Certification marks for Gold




916 ‰	
925 ‰	
999 ‰	

Figure 6 Certification marks for Silver

950 ‰	
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Figure 7 Certification marks for Platinum

950 ‰	
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Figure 8 Certification mark for Palladium

cius metals, without being marked in advance. In such conditions, NACP might suspend or order the authorization withdrawal to perform operations with precious metals and precious stones.

Most frequent deviations from the legal framework are [25]:

- The lack of metrological bulletin of scale for jewelry and failure to display prices;
- The lack of NACP certification or own guarantee mark for silver jewelry;
- The lack of warrantee certificates for trading silver watches;
- The lack of indicating of the date of commencement and termination of the promotion in which silver jewelry were traded.

Except control duties, the same institution is also responsible in providing and accomplishing other tasks [26], like: surveys at the request of the banking units, judicial or Treasury, testing within the Laboratory of precious metals investigating, melting / re-melting works, analysis and markings, the authorization of economic operators to conduct operations with precious metals and precious stones, but also annual visa application.

CONCLUSIONS AND PROPOSALS

Following EU accession the precious metals market from Romania must take into consideration all european regulations strongly oriented to customer / consumer interests. At the same time, we might admit the need for an open market, without trade barriers, even in this specific field of activity. Good practices that define EU space and major developments in the sector were encouraged by the fact that most member states have an Labelling Office, organized as a separate public institution, which is absent in the care of Romania. Taking into consideration that the inland laws requires licenses for precious metals operators, this might be considered as a sign of trade barrier, mainly because of related bureaucracy. Consequently, in line with the EU Directive no.123/2006 section (54), it is necessary to abandon this procedure. It is also necessary to establish the compulsory of specific information concerning the operators with precious metals, including specific detailed descriptions (and not general requirements as imposed by current statements), in order to protect consumers and to provide them conclusive information when purchasing them.

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Note: The responsible for English language is the lecture from Faculty of Economics, Suceava, Romania.