



## Problematical Issues Concerning the Necessity of Adopting a Law Referring to the Accounting Law in Romania in the Present Context

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**Abstract** *The article, having as theme on "the necessity of a right accounting in Romania in the current context" brings into the reader's attention some aspects connected with the accounting law issues in the current context. In this respect, we presented a general argumentation on the subject of interest to the object referring to the scientific researches object. In the same time, we followed to show the norms and regulations which are fixing the nowadays juridical frame of Romanian accounting and which put together the first source of what specialists call proposed accounting law able to identify the factors having influence in the view of creating an accounting law. We aimed to identify the factors they have influenced the emergence of the accounting law.*

**Key words:**

Accounting, accounting law, regulations, case law, doctrine, commercial, emerging general plan accounts

**JEL Codes:**

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### 1. Introduction

Because the firms' accounting, all around the world is now well established, that meaning that the "accountable truth" is "found" by the application of some rules, there is a conditional link between accounting and law compliance. There are some authors who support the hypothesis that the spread of accounting with double entry was also due to the probative force of commercial registers in order to solve commercial litigation from the law point of view: and so was born the link between accounting and law, which will persist until today.

After 1990 was realized a reform, by which was intended to form a Romanian accounting law covering specific accounting concepts and practices of enterprises operating within the specific market economy conditions and with help of which was also realized a certain harmonization with the EU accounting rules.

Since 2000, the accounting of enterprises from our country entered another phase of its evolution; its current process must represent a different stage of development of the previous mentioned one, in order to ensure the compatibility of the Romanian companies' accounting and the evolutions of the international accounting law<sup>1</sup>.

Romanian accounting firms by ensuring compatibility with international developments in accounting law.

This paper proposes, again, a new approach for the necessity of a new accounting law in our country in the current context, a new division of the private law, and namely the accounting law, who appears as the third branch in the segment of private law (the first two being civil and commercial law).

Approaching the theme which was enunciated, the object of knowledge is given by the legal sciences, and, as a consequence, we considered it useful to justify the position we have adopted, explaining, from the origin, the foundation of the accounting law in the historical context of the emergence and development of a subdivision of the private law, determined by the socio-economic evolution over time.

### 2. Content

Harmonisation of the national accounts both with the international standards and the European accounting directives gave birth to a lot of problems of regulatory issues and doctrine (interpretation) have a double financial- accounting and legal valence which brought new arguments in order to support the existence of the accounting law as a specific branch of law, with its own jurisprudence and doctrine<sup>2</sup>.

<sup>1</sup> Ion Ionașcu, *Dynamics of contemporary accounting doctrines*, Economic Publishing House, Bucharest, 2003, p.122

<sup>2</sup> Gheorghe Crețoiu, Ion Bucur, *Accounting. Bases and the new judicial frame*, All Beck Publishing House, Bucharest, 2004, p.44

The accounting law, as a modern component of the legal science, like an independent discipline founded relatively recent; the birth of the law in an independent form could be established by the end of the fifth decade of the XX<sup>th</sup> century, when the autonomous accounting statutes appeared in order to organize the management of the accounting methodology at the level of the national economy.

Regarding the status of this discipline, according to some authors, the accounting law is a part of the commercial law, but, after others opinion, it is an autonomous discipline and for other authors it is or may be a discipline in between borders, "*accounting and accounting law*".

Based on a careful analysis concerning of the laws components, the conclusion we reached is about that the accounting law (as well as commercial law and tax law) is autonomous, autonomy which derives from accounting's regulations and specific rules and from professionals working in this area of activity and conferring to this law's subdivision the individualization of its object.

In this respect, the specific accounting principles adopted by accounting regulations, rules specifically expressed on, concerning: preparing justificative documents for any operation that affects the enterprise's patrimony, the chronological and systematic recording in accounting of all financial and economic accounting operations, the inventory and evaluation of patrimony's elements, annual financial statements drawing up and their verification and certification, in order to publish and to deposit the accounting information and other specific methods and techniques which form the object of accounting.

Note in this context the following distinct components of legal regulations in the field of accounting, namely: the sphere of its application, some peculiarities in its application to public sector institutions, establishing explicit responsibility for the accounting's organization and management; regulation of professionals' statute working in the field of accounting; the specific defining of contraventions and offenses in the accounting's field. In order to present the accounting law's evolution, the specialists in reference works distinguish three periods well framed as following: the period September 1, 1887 (date of entry into application of the Commercial Code) - January 1, 1949, the date of transition to the accounting's normalization process, the period 1 January 1949 - December 1989 characterized by a centralized economy and a regulatory and legislative system adapted to the law system adapted to that period and the period between January 1, 1990 – till nowadays, characterized by the most profound reform of the national system of accounting, in which the Romanian accounting has traversed a series of stages

with the scope of its connection to the accounting systems used on an international scale<sup>3</sup>.

In conclusion, accounting law belongs to the national law (internal), as an independent division of the private law. Long time, the accounting didn't have its own regulations and law sources; the specific literature of this field considers that the origins of the accounting regulatory process appeared in early Colbert's Ordinance since 1673, and especially in the Trade Code adopted in France in 1807 (entered into force on January 1. 1808), which contains 10 articles about the traders' registers, from which 6 recorded the evidence in court of all proofs. Future regulations and in particular the laws and the standardization of accounting measures, namely the production and use of charts of accounts have led many experts to assert that by it has made its way "a true accounting law."

The Accounting law is the private law section leading accountants and accounting. With the scope of developing these ideas, in the paper written about this field of activity made by a French team of specialists, "Accounting and accounting law" under the leadership of Professor Alain Burlaud was affirmed that, by legislating a mandatory general Plan of accounts came into effect in 1982 (in contrast with the period between 1947 and 1952 plans, which didn't have an obligatory feature), when "in the matter of law were introduced new concepts, created by the accounting language, which meant the most remarkable evolution, because it was admitted like able to mark the accounting law emergence". Concerning the emergence of the accounting law, teachers Ion Gheorghe Cretoiu and Ion Bucur endorsed the idea of the accounting law's emergence, starting from the premise that "the information that accounting produces is a public good, intended for multiple use, and this is why it requires a code of its own generation, dissemination and use. In this respect the more justified is the idea of the existence of the accounting law in conditions in which law's principles and rules are consacred because of a law adopted by the parliament, and the plan of accounts and the regulations of its application has a feature not only like a methodological rule, but also as a law one.

Accounting's harmonization of national standards with international standards and regional regulations give birth to numerous doctrinal issues (interpretation), problems which have a double valence from the financial-accounting and legal point of view and they bring new arguments in order to support the very existence of the accounting law.

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<sup>3</sup> Emil Nişulescu, Maria Manolescu, Gheorghe Lepădatu, *The accounting law*, Ed. Tribuna Economică, Bucharest, 1998, p. 70

Regarding the status of this discipline, according to some authors, the accounting law is part of the commercial law, after others it is an autonomous discipline but following others authors it is or may be a borderline discipline: "*accounting and accounting law*". As a specific branch of law, accounting law has accumulated, along the time, its own independent concepts and rules, all independent of other rules and disciplines of law; it possesses its own jurisprudence and doctrine, which were all but inseparable from the theoretical and methodological foundations of accounting.

It is widely spreaded the idea that the sources of the accounting law are:

A. *Legislative sources* consisting of: the Commercial Code, the Commercial Company Law, other laws, government ordinances, and so on;

B. *Jurisprudential and doctrinal sources*:

- The Case law / jurisprudence (court decisions);
- The Doctrine (interpretations and recommendations concerning public or professional organisms)

C. *The standards (IAS/IFRS), International guidelines and international doctrine (IASB, EEC, UN, OECD, the International Movable Values Commissions' Organisation)*.

In Romania, the basic texts on which the accounting law's current sources are built can be enumerated as following:

- the Accounting Law no. 82/1991, modified and republished;
- the Commercial Companies Law no. 31/1990, republished;
- Order no.3055/2009 for the approval of accounting's regulations harmonized with EU directives;
- Order no. 1286 of 1 October 2012 for the approval of the accounting's regulations, according with commercial standards whose movable values are admitted to trading on a regulated market;
- General chart of accounts;
- IASB Framework;
- IAS / IFRS;
- The IV and VII Directives of the EEC.

In connection with the necessity of accounting law, the university professors Călin Oprea and Michael Ristea reveals that the unification and the hierarchy of all texts concerning the accounting regulations in a single, unitary ensemble can lead to a true accounting law and they define in this way its content as: "all laws, rules, orders, instruments and other laws relating to the organization and the accounting and financial statements or documents' management but also the drawing up of the synthesis summary reporting"<sup>4</sup>. In the

same respect, Professor Nicolae Feleagă and his collaborators states: "The legal framework of a country's accounting is the product of a new law's branch, called accounting law"<sup>5</sup>.

By definition, the commercial law has as its own object the "production" and the use of legal rules acts opposable to the trade acts and tradesmen. Many of the specific accounting law rules are identified emerge from and converge toward the commercial judicial norms. The common segment between the two forms of law is defined and regulated through the *commercial societies' law*. This one contains judicial laws which, in the same time, are also accounting norms concerning: keeping the company registers' record; the drawing up, the audit and presentation of the financial situations; the creation, the reduction and the capital increase; the distribution of profits including the payment of dividends; emission of bonds; the dissolution, the fusion and the division of companies. The legal rules in the accounting field foreseen in the Commercial Code refer to the importance of organizing and bookkeeping in the business activity.

In order to realize the objective of the accounting functions, it involves, in addition to a system of principles and rules, a set of tools and techniques through which it can be organized and lead the accounting evidence of all business units and public institutions. Among these, a central place is occupied by the documents, accounting books and accounting models themselves.

The accounting's knowledge begins with the recording and the collection of accounting information, of the accounting data subjects about business assets. Recording and accounting background provides raw intelligence data about the existence, condition and the heritage's movements. This process is performed using documents. In the field of accounting shall be included only those documents that record operations which are within the financial accounting function of the economic unit. In this sense, the Accounting Law No.82/1991 stipulates that any economic and financial operation performed is recorded when it occurs in a document underlying accounting records, achieving in this way the quality of justifying and supporting documents underlying the accounting records and they engage the responsibility of persons which prepared them, endorsed and approved, and those ones that they recorded in the accounting registers as appropriate.

Their features as supporting documents give to the evidence documents the quality of probative value in court. In their vast majority, the evidence documents record legal relations between enterprises and in cases

<sup>4</sup> Oprea Călin, Mihai Ristea, *The bases of Accounting*, National Publishing House, 2000, p.62.

<sup>5</sup> Nicolae Feleagă, Liliana Malciu, Ștefan Bunea, *The bases of Accounting*, Economic Publishing House, 2002, p.31

of gaps in management, fraud, they serve as the base for criminal investigations and judicial practice.

The rules concerning the application of the Accounting Law provide that general ledger accounting, the inventory ledger and ledger with supporting documents, and balance sheet, prepared by standards, are the official accounting records necessary in order to exercise the control over the patrimonial operations they were effected and they can be admitted as evidence proceedings in court.

"The general framework of harmonization of accounting regulations with the IV<sup>th</sup> EEC Directive and with the International Accounting Standards" defines the justificative documents as primary documents that prove a legal transaction and the underlying the accounting records inside of accounting documents.

In the developing Plan's vision, the Romanian regulations in accounting must include: an updated regulations vision which should reflect all the requirements of the Fourth Directive, the International Financial Reporting Standards, recommendations and guidelines on accounting standards and regulations<sup>6</sup>.

The Romanian accounting includes a number of regulations, which provide the shape and the content of annual financial statements, the accounting principles and valuation rules and the rules for drawing up, for the approval, for auditing and the publication of the annual financial statements, taking into account the requirements of the European Directives, but also about the accounting standards issued by the IASB.

### 3. Conclusions

The accounting law has accumulated along the time their concepts and own rules, independent of the rules and disciplines of law; it has its own jurisprudence and doctrine, all of which related to the theoretical and methodological foundations of accounting.

All the normative acts issued by State's public institutions and also with the accounting doctrine form together the Romanian accounting law.

The harmonisation of the national accountings with the international standards, regional regulations and regulatory issues arise many problems of doctrine and regulation, if the information is in the center of finance and accounting in the context of major changes taking place in the world, when it requires more than ever the need for an accounting law in Romania.

### Bibliography

1. Crețoiu Gheorghe, Bucur Ion, *Accounting. Bases and the new judicial frame*, All Beck Publishing House, Bucharest, 2004
2. Feleață Niculae, Malciu Liliana, Bunea Ștefan, *The bases of Accounting*, Economic Publishing House, 2002
3. Ionașcu Ion, *The contemporary accounting dynamic's doctrine*, Economic Publishing House, Bucharest, 2003.
4. Jalbă Luminița, *Norms, regulation and jurisprudence in Romanian accounting*, Ed. Universitară, Bucharest, 2011
5. Munteanu Victor, Bleotu Vasile, Tilea Maria, *The bases of Accounting*, Pro Universitaria Publishing House, Bucharest, 2012
6. Nișulescu Emil, Manolescu Maria, Lepădatu Gheorghe, *The accounting law*, Ed. Tribuna Economică, Bucharest, 1998
7. Oprea Călin, Ristea Mihai, *The bases of Accounting*, National Publishing House, 2000.

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<sup>6</sup> Victor Munteanu, Vasile Bleotu, Maria Tilea, *The bases of Accounting*, Pro Universitaria Publishing House, Bucharest, 2012, p.36.