

**THE DEFRAUD INVESTIGATION METHODOLOGY  
COMMITTED IN THE INDUSTRIAL RECYCLABLE REFUSE**

**METODOLOGIA INVESTIGĂRII FRAUDELOR COMISE ÎN  
DOMENIUL RECICLĂRII DE DEȘURILOR INDUSTRIALE  
RECICLABILE**

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*The rational use of the refuse has to be a national element of a country strategy, and the production, collection and capitalization of the refuse or of the products resulted from them and generally their management in a modern economy, has to be a main concern element of the society in general and of the individual particularly.*

*In the offences investigation in this domain: there are displayed research activities at the crime place, people examination, building, plot of land or of the goods that the involved people own, to levy distraint up on the goods, searches, objects and documents taken for examination, to order technical-scientific, criminal and financial- bookkeeping findings.*

**Key words:** *refuse recycle, law, and investigation*

**I. GENERAL CONSIDERATIONS**

Using the industrial recyclable refuse in different technological processes to replace the raw resources can be done with lower costs as a result of the major savings mainly in the difference between the price of the price of the replaced raw materials and the price of the replacement refuse, as well as from the specific energy and water consumption saving.

The rational use of the refuse has to be a national element of a country strategy and the collection and capitalization of the refuse or of the products resulted from them and generally their management in a modern economy, has to be a main concern element of the society in general and of the individual particularly.

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The attractive prices of the ferrous refuse and non-ferrous as well as quick profits that can be obtained have determined the orientation towards this activity of many economical agents and people who, in order to increase their income have used different ways and methods without law sustain, determining the rise of an entire related to an infraction phenomena in this domain.

The economical agents that display activities of collecting of the industrial recyclable refuse from people can activate only on the collecting authorisation base emitted by the county prefecture, with the town hall's notification of the village, town or city where that economic agent is displaying the activity, based on the proof that the agent owns the necessary space and technology for the storage of the collected refuse, and based on the environment authorisation emitted by the territorial authority for environmental protection.

The economic agents who collect industrial recyclable refuse from people are obliged to issue the receive and payment certificate, that will necessarily contain the next elements: a)The collecting economic agent name; b)Identification data of the owner: First name and last name; The identity card, number and series, personal number code; Address; c)The delivered recyclable refuse and the define of its nature; d)Quantity, price, value; e)The refuse provenience, declared by the owner on his own responsibility; f)Signature of the collecting agent and of the owner person.

The authorised economical agents for the collection of the recyclable industrial refuse collection from natural people are obliged to reintroduce in the productive circuit throughout delivering to the specialized economic agents, authorised for the capitalization activity of these, in the circumstances of the present urgently disposition.

The specialized economic agents in capitalization activities of the recyclable industrial refuse are obliged to deliver the secondary raw materials or the obtained recyclable materials, but only sustained by the quality documents or guaranty certificate, where necessary, in accordance with the present regulations.

The economic agents who own, collect and/or capitalize the recyclable industrial refuse are obliged to bookkeeper them, to report and to give information when necessary to the people with control attributions, in concordance with the regulations of the present urgency disposition and of the other regulations.

In accordance with 138/2006 Law, it is forbidden, until 31<sup>st</sup> of December 2007, the acquisition from natural people of no-ferrous metals, of their alloy, and of the recyclable no-ferrous refuse, with the exception of the precious metals, of the batteries, of the used storage batteries of the vehicles.

The capitalization authorization is valid only for a period of 3 years since the emit date, with the possibility of prolonging.

In accordance with the article number 14 from OUG 16/2001: it is considered offence and it is punished in accordance with the Penal Code the fraud in the declaration of the recyclable industrial refuse owner with reference to their provenience, as well as the thefts or defalcation of materials, products or equipments for their capitalization as refuse.

It is also considered offence, and it is punished as worsening in accordance with the Penal Code the thefts or defalcations of materials, products, or equipments for capitalization endanger the environment, as well as the health/safety of the population.

## **II. GENERATING CAUSES AND CONDITIONS**

Among the main generating causes and conditions we can enumerate the following: the environmental authorisations are emitted by the Regional Environmental Protection Agencies sometimes without a initial verification at the space and without the accomplishment of the necessary conditions, imaginary names on receive and payment certificates, the economic agents display activities with recyclable refuse without being authorised or without the accomplishment of the necessary conditions settled by law.

The important export economical agents in the domain have activity agencies opened in the majority of the regions of the country or subsidize the activity of other companies, liked, with the obligatorily, from their part, to have them as sole beneficiary.

These have business relationships or have activity agencies in all the delicate areas (generators or consumers of metallic refuse), as a result the collected and capitalized refuse by the majority of the economic agents from the country, manage to enter in their possession. The main way of committing offences in the domain lately are thefts and financial evasion.

Ways of committing offences: recyclable industrial refuse are commercialised by registering in the documents as “secondary raw material” in order to avoid authorisation; receive and payment certificates on imaginary names are emitted, the majority of these goods are the result of theft; economic agents display activities with recyclable refuse without

being authorised or without the fulfilment of the necessary conditions settled by law.

### **III. RESEARCH ACTIVITIES**

In the situation of the notifications addressed directly to the police or transmitted through the prosecutor's office where some offences are signalled in this domain there are displayed:

1. Activities throughout which there are defined the department to which it is distributed and through which it is registered;
2. The notification is examined of the specific file is worked out;
3. If it is necessary the plaintiff is identified and he is asked to complete the notification with documents ways of proof of the claimed offences, both orally and in written containing data about the possible doers or witnesses;
4. The research competence of that specific situation it is checked;
5. If there are necessary specialized examinations the necessary documents will be worked out;
6. Activities of people examination are displayed in different positions (beginning with the witnesses and ending with the offenders or the claimed ones ) all stages of an examination are covered;
7. At the ending of the aimed activities for the prosecutor to be executed or ordered, the file will be analysed with the prosecutor who supervise the researches, in order to work out a legal proposal in that situation;
8. In the same time with the initial documents working out there will decide on ways of identification of the personal and real estates, data regarding the goods owned and for which taxes and fees should be paid at the local or state budget, as well as of the owned values of the doers, for the information of the prosecutor who supervise the researches in that situation, in the possible case of the applying the assurance execution at the beginning of the suing at law moment. Also in the situation when it is noticed that these have or get information regarding the existence of abroad personal and real estates by the claimed people, through international examination boards, their identification and evaluation will be requested.
9. If the penal sue is displayed without the starting the penal activity (in simpler situations, without being necessary the preventive arresting) the research strategy will be settled, where will be mentioned tasks with responsibilities and concrete notions of execution that are going to be

accomplished forward on to solve the situation on all aspects and for an operative solving. The gathering and checking of all the necessary and possible proofs it is proceeded to determine what kind of offence was committed, who is the author, and if this will penal responsible, to decide if it is or not the case to sue him.

10. The investigation at the offence place is displayed based on the applicable rules in any investigation;

11. It is preceded to the examination of the accused in the presence of the defender, by the witnesses, victims, and civil representatives, by civil responsible representatives. During these examinations the declarations are written on documents with special characteristics;

12. The order of some technical-scientific notices, book-keeping expertises;

13. The next will be the working out of the documents for the assurance execution proceeding for the recovery of the caused prejudice and its presentation to the prosecutor;

14. The execution is done and searches are unfolded, reconstitution, confrontations, as well as prevailing of objects and papers;

16. In the case of commercial companies the procedures will be as follows: - The identification of the authorised economic agents for the capitalization of the recyclable industrial refuse on the competence area; the identification of the authorised economical agents for the collecting of the recyclable industrial refuse from natural people; the identification of the commercial companies that display exports of recyclable industrial refuse; checking the legal setting up and functioning of these commercial companies; checking the provenience documents regarding the acquisitions of recyclable industrial refuse; checking the delivery of secondary raw materials or of recyclable obtained products, only sustained by quality or guarantee documents; checking the reintroduction in the productive circuit of the recyclable industrial refuse; - The identification of the goods suppliers and if in the checked company book-keeping there are documents that show their legal functioning; checking the legality and the reality of the acquisitions of the recyclable industrial refuse (from natural people or economical agents); displaying examinations in the book-keeping of the

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exporting companies for identifying the possible differences between the exported and acquisitioned quantities. Due to the fact that the metals in their different forms continue to be one of the main objectives of the offenders, increasing the defalcation and bad management situations of these resources, with severe implications on the energetic system, in the transport domain, etc, leading to important prejudices to the state budget, has to provide a higher attention to the presented problem.

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