European Journal of Economics, Finance and Administrative Sciences
ISSN 1450-2275 Issue 99 August-November, 2018

http://www.europeanjournalofeconomicsfinanceandadministrativesciences.com

Understandability in Italian Financial Reporting and Jail: A Link Lived Dangerously

Maria Silvia Avi
Full Professor in Business Administration
Management Department- Ca'Foscari Venezia
S. Giobbe – Cannaregio 873- 30121 Venezia (Italy)
E-mail: avi@unive.it
Tel: +39 348 3018422

ORCID ID: orcid.org/0000-0003-11164-4410

Abstract

IFRS Conceptual Framework establishes that understandability identifies a fundamental principle of the financial report even if the document underlines how this postulates represents an important element but with a level of relevance slightly lower than that of the Fundamental qualitative characteristics (Beest F., Braam G., Boelens S., 2009; Jonas G.J., Blanchet J., 2000) identified in relevance, materiality, faithful representation in measurement of the economic facts objects of accounting. Alongside these standards, the IFRS Conceptual Framework (Ankarath N., KJ Mehta K.J., Ghosh T.P., Alkafaji Y.A., 2010; Alexander D., Britton A , Jorissen A., 2007; Cristea, S. M. and Saccon, C. ,2008; Delvaille, P., Ebbers, G. and Saccon, C. 2005; Haller A., B. Eierle, 2004; Nobes, C. W., M. Gee and A. Haller, 2010; Alexander, D., Nobes C., 2013; Nobes C.W., Stadler C., 2015; Nobes C., 2016; Hopwood, A. G., Chapman C. S., Shields M. D. (2007a); Hopwood ,A. G., Chapman C. S., Shields M. D., 2007b) identifies individual Enhancing Qualitative Characteristics in comparability, verifiability, timeliness and understandability. It should be noted that these latter characteristics are not irrelevant but are indicated as indispensable principles for the improvement of corporate communication (Hopwood, A. G. and Peter Miller, 1994; Yuthas K., Rogers R., Dillard J.F., 2002).

In Italy, the situation is profoundly different (Nobes, C.W.,2013). The understandability is considered of equal importance to the faithful representation in measurement of the economic facts object of accounting. Recently, the jurisprudence of the last instance has also highlighted how a lack of understandability, even in the presence of a faithful representation in measurement of the economic facts object of accounting entails penal sanctions and causes penal falsehood in financial reporting. In this case, it is about "false penal quality". It should be noted that Italian law provides for a prison term of between one and five years for penal false corporate communications unless the facts that are not relevant, taking into account the nature and size of the company and the methods or effects of the conduct (in this case imprisonment from 6 months to three years is provided).

Keywords: understandability, IFRS Fundamental qualitative characteristics; IFRS Enhancing Qualitative Characteristics, faithful representation in measurement

of the economic facts object of accounting, penal “qualitative” false; financial reporting, understandability and jail.

The Difficult Cohabitation in the Financial Reporting of Understandability and Faithful Representation/True and Fair View

The period from 1865 (Hopwood, A., 1987; Hopwood, A.G., 1999) (year of promulgation of the first Italian Code of Commerce) up to the present day is characterized by a considerable diversity in the positions taken by the judiciary with regard to the various issues related to the financial reporting (Zeff S.A., 2013). In the 1800s and early 1900s, jurisprudence, both in terms of merit and legitimacy, considered judicial control of financial statements to be an inadmissible "interference" in the administrative-management field of the company, with the consequence that some judges even pronounced sentences of legitimacy in relation to clearly false financial statements, without faithful representation in measurement of the economic facts object of accounting and understandability.

Around the 1930s, however, the idea that the financial reporting was a document totally beyond the control of the judges began to become outdated and, by beginning to judge the painfully high-rate financial reportings as invalid, the first step was taken towards the syndicability of that prospectus that, until a few years earlier, was considered practically impusible. From that moment on, the jurisprudence recorded a slow but progressive evolution which allowed the operators outside the companies to be able to count on a balance sheet and a profit and loss characterized by an always greater connotation of an information instrument for third parties.

But it is especially from the end of the 1960s onwards that the financial statements begin to assume importance as a means of communication to the outside world (Ewer, Sid R. , 2007), also thanks to a revival of jurisprudence that led to a "revaluation" of the information function (for third parties in general) of financial reporting. Before then, in fact, almost all verdicts accepted the principle that the articles of the Civil Code concerning the financial reporting were not, in reality, mandatory rules and, consequently, the simply parameter used to judge the possible penal falsity of the financial reporting to which were associated to penal sanctions such as imprisonment or fines while the invalidity of the civil law just provides for the obligation to rewrite the financial reporting. It should be noted that the difference between the civil invalidity, and the criminal falsity of the financial reporting has always been linked in Italy, respectively, to the absence or presence of the will to derive a personal benefit from the error and from the desire to mislead third parties.

In the 1960s, a financial statement was considered invalid only if it was false pursuant to Article 2621 of the Italian Civil Code because of fraudulent exposure to untrue facts or the omission of facts regarding the economic and financial situation of the company. Furthermore, in that period, the judges, both of merit and of legitimacy, did not attribute to the principle of understandability the slightest relevance and, consequently, during the proceedings, the only postulate discussed was that of truth/faithful quantified representation. In this period, understandability (Adelberg A.H., 1979) was a principle that, although imposed by the Civil Code, was considered irrelevant and therefore, its non-application did not imply invalidity of the financial reporting. In this regard, it should be noted that the IFRS Conceptual Framework, on understandability, highlights the characteristics that financial statements must have in relation to this standard (Haller A, P. Walton and B. Raffournier B., 2003). In particular, points 2.34, 2.35 and 2.36 of the Framework state:

“2.34 Classifying, characterising and presenting information clearly and concisely makes it understandable.

2.35 Some phenomena are inherently complex and cannot be made easy to understand. Excluding information about those phenomena from financial reports might make the information in those financial reports easier to understand. However, those reports would be incomplete and therefore possibly misleading.

2.36 Financial reports are prepared for users who have a reasonable knowledge of business and economic activities and who review and analyse the information diligently. At times, even well-informed and diligent users may need to seek the aid of an adviser to understand information about complex economic phenomena."

From the above clearly, understandability is considered by the IFRS Conceptual Framework to be very relevant, even if it is of relatively inferior importance to that assigned to the Fundamental qualitative characteristics (relevance, materiality, faithful representation in measurement of the economic facts objects of accounting).

At the end of the '60s, in Italy, a certain evolution began to be noticed in that the sentences at first began to recognize the hypothesis of false even when the company's assets were valued below the limit of "reasonableness" and then, gradually cutting the close link that had arisen between the invalidity of the balance sheet and penal legislation, began to give importance to the principle of understandability in spite of when the valuations, although not falling within the limits of falsehood, were made without compliance with the aforementioned parameter. It was especially after this revival of jurisprudence that the balance sheet really began to take on the connotation of an information tool intended for use outside the company.

In 1968, however, we saw an real "turning point" in jurisprudence. The Court of Milan, in fact, with the historical sentence of December 23, 1968 affirmed principles that constituted real points of reference for subsequent jurisprudence. In this jurisprudential decision, it was affirmed, in the first place, that the civil law rules, governing the financial statements was to be considered "mandatory" with the consequence that a violation of them should be considered as a cause of invalidity of the resolution of approval. Moreover, after 1968 the understandability postulate was also reassessed as the judges began to assert that the violation of this postulates should always be considered as a cause for nullity of the financial statements. Therefore, in spite of in the case of a minor error, the magistracy declared the financial reporting null and void without carrying out any further assessment of the real impact of such a "lack" on the right to information, which was beginning to be granted to shareholders and third parties outside the company. As it can be seen, the passage from the lack of consideration of understandability as an essential element for the financial reporting to the imposition of this principle as a fundamental postulates caused the lack of consideration of materiality: after 1968 even the slightest error in understandability caused total invalidity of the balance sheet and profit and loss (Hopwood, A.G., 1983). In this regard, it should be noted that the IFRS Conceptual Framework, in point 2.11, on materiality, states that:

"2.11 Information is material if omitting it or misstating it could influence decisions that the primary users of general purpose financial reports (see paragraph 1.5) make on the basis of those reports, which provide financial information about a specific reporting entity. In other words, materiality is an entity-specific aspect

of relevance based on the nature or magnitude, or both, of the items to which the information relates in the context of an individual entity's financial report. Consequently, the Board cannot specify a uniform quantitative threshold for materiality or predetermine what could be material in a particular situation".

At the end of the '70s, the Italian situation regarding the importance assigned to understandability changed again. In this period, actually, there was a real "reversal" of the orientation followed by the prevalent jurisprudence after the leading case of 1968. In 1977, in reality, for the first time, the Court of Cassation, that is to say, the judge at the highest Italian level, stated that the lack of understandability in the financial statements could lead to the nullity of its approval only when it was such as to make it objectively impossible to check compliance with the principle of truth. In this way, the postulate of instrumental understandability was made and, therefore, subordinated to that of faithful representation in measurement of the economic facts object of accounting (Alexander D., 1993) with the consequence that the violation of the rules governing the intelligibility of the financial statements was no longer considered an "autonomous" cause of nullity.

This orientation, which, in turn, referred to the thesis supported by authoritative scholars, meant that, for more than a decade, the invalidity of the financial reporting was declared just if this document was not true (or quantitative faithful). Furthermore, in this period, therefore, the postulate of understandability was rendered meaningless, which was considered relevant merely if it implied at the same time a non-application of the basic principle of faithful representation in measurement of the economic facts' objects of accounting. The situation that has arisen in this period has led to the recognition of the informative function of the document in question being regressed because a balance sheet and a profit and loss, in order to be a valid information tool to the outside world, if, on the one hand, they must be true (quantitative faithful representation), on the other hand, they must as well be understandable and intelligible. If the prospectus under discussion contains correct information that is, nevertheless, ambiguous, confusing and imprecise, clearly users outside the company cannot consider their legitimate right to information to be satisfied. Therefore, the understandability - and, consequently, the comprehensibility and intelligibility of the financial statement data, as well as the faithful representation in measurement of the economic facts object of accounting, must be considered a postulate from which one cannot rescind if one wants to draw up a document that represents a cognitive means for third parties external to the company.

Understandability Today: Postulates with the same Dignity as the Faithful Representation in Measurement of the Economic Facts Object of Accounting

The attitude of the jurisprudence of the 70s is today completely outdated. In fact, the magistracy, with regard to the understandability postulate, modified the position previously assumed in the 90s, and this can merely be judged in a favourable way, since just the "equalization" of the postulates of understandability and of the faithful representation in measurement of the economic facts object of accounting can guarantee the drawing up of a balance sheet that can be interpreted as a valid instrument of information from the outside.

This means that the absence of understandability is now unanimously considered the cause of radical nullity of the resolution approving the financial statements. The only exception to this principle is found in many judgments, which state that minor errors, which in any case do not distort economic and financial communications, must not be considered as causes of invalidity of the financial reporting (Mouritsen, J., K. Kreiner, 2016). In these cases, therefore, also in Italy, the postulate of materiality has been recognized in jurisprudence.

The intelligibility of the economic-financial values is thereby recognized with dignity equal to the truthfulness of the data.

Lack of Understandability in the Financial Statements and Civil Consequences: Nullity of the Decision Approving the Financial Statement

The equal relevance of the understandability postulates (Rachel F. Baskerville R.F., Rhys H., 2014; Haller, A., 2002) and faithful representation in measurement of the economic facts' objects of accounting now appears a point of no return (Alexander D., Jermakowicz E, 2006). If the understandability is not observed by the managers that compile the financial statements, the statutory consequence is therefore, the nullity of the resolution approving this document, which causes the obligation to rewrite the financial statements in a correct and clear manner (Benston, G. J., M. Bromwich, R.E. Litan, and A. Wagenhofer, 2006).

In this regard, Italian law, which, of course, differs from what is imposed in other countries (Burchell S., C. Clubb A.G. Hopwood 1985; Di Pietra R, McLeay S., Riccaboni A., 2001; Godfrey J.M., Chalmers K., 2007; Nobes C ., Parker R., 2016; Oderlheide, D., 2001; Wagenhofer, A., 2006; Hopwood, A. G., 1990; Hopwood, A.G., 2009; Alexander, D. and H. R. Schwencke, 1997; Alexander, D. and H. R. Schwencke, 2003), states that civil actions to challenge an financial reporting not understandability and not true in faithful representation in measurement of the economic facts object of this document may not be brought against resolutions for approval of the financial reporting after approval of the financial reporting for the following financial year.

From a civil law point of view, the consequences of not applying the postulate of understandability are expressed in the possibility that the financial reporting may be challenged and its radical nullity requested. In this regard, it should be noted that the decision, in addition to the shareholders, may be appealed by anyone with an interest. This phrase must be interpreted as meaning that the decision approving the financial statements may be appealed by any person, shareholder or not shareholder, who has an interest in the concrete and current appeal. Summarizing in an extreme way, it is possible to say that:

a) concerning third parties that are not shareholders, the doctrine and the jurisprudence agree that the appeal that is proposed to obtain the declaration of nullity of the financial reporting requires the existence of an interest in taking real and current action;

b) a minority orientation exists with regard to the shareholders, which identifies the quality of the shareholder as enough to consider that there is an interest in asserting the nullity of the resolution. The prevailing doctrine and jurisprudence, however, favor the opposite thesis, i.e. that the presence of a real interest of those who challenge is necessary so that the simple quality of a shareholder would not be enough to legitimize, in itself, the challenge of the shareholders' resolution for the approval of the financial statements.

Examining the issue of the right to challenge the resolution to approve an untrue and/or incorrect and/or understandability financial statement, clearly the presence of an interest in current and concrete action is considered by all to be an essential element in the action to be proposed.

The majority of scholars, therefore, agree that, even in this specific hypothesis, the quality of membership, in itself, is not sufficient to propose a financial reportingary challenge. The action to have a resolution to approve an illegitimate financial reporting declared null and void, even if proposed by a shareholder, consequently presupposes, as in all other cases of nullity, the demonstration of an interest in concrete and current action.

If, on the one hand, it is real that this statement is shared by the prevailing doctrinal current and by numerous sentences, on the other hand, it is equally real that, in the presence of untrue and/or incorrect and/or not understandable financial statements, the interest in acting is considered to be practically always present on the part of persons who have subscribed to the share capital, who sees in the balance sheet and in the income statement and the notes to the financial statements the information instruments par excellence appointed to monitor the overall situation of the investment made as a risk. It is therefore considered, now almost unanimously, that the interest in acting is inherent in the shareholder not because it is connected to this qualification, but because it seems obvious that, as a shareholder, the subject is interested, by definition, to know the situation of the company in which he has an interest.

There is also a now unanimous view that the interest in acting should not necessarily be linked to rights of a pecuniary nature. This interest is therefore, not linked to a hypothetical achievement of economic benefits deriving from the declaration of invalidity, but is essentially the consequence of the right, unanimously recognised by shareholders (and third parties outside the company), to be informed clearly and truthfully about the economic and financial situation of the company in which these persons have decided to invest their capital.

With regard to the materiality/irrelevance of errors and/or omissions in the financial statements, we believe that we can fully support the majority view, which considers it necessary that the lack of understandability, in order to be a cause of contestable, must be significant. If the defects are negligible and the inaccuracies minimal, both the doctrine and the judiciary consider that there is no right to a financial reporting challenge, not because of a lack of interest, but because it is manifestly unfounded. In Italy, therefore, the materiality imposed by the IFRS Conceptual Framework (Morton J.R., 1974) is applied for all purposes.

It follows that the concreteness and topicality of a shareholder's interest in acting occur in the presence of a specific prejudice that is not necessarily connected to the frustration of the expectation of receiving dividends or other immediate economic advantage, but can arise instead only from the circumstance that the lack of understandability and/or faithful representation in measurement of the economic facts objects of accounting of the financial statements prevents this subject from coming into possession of the information regarding the company situation that the articles of the code require to be communicated through the preparation of the balance sheet, the income statement, the explanatory notes, as well as the report on operations.

With regard to this issue, the Supreme Court underlined that "if it is true that this interest cannot be identified with the generic and intangible interest in the mere implementation of the law or simple legality, it is also true that this interest is not the abstract respect of the principles of understandability , truthfulness and accuracy, but to have the necessary information to infer the value of its participation: there is therefore, a substantial interest that translates into the procedural one".

These considerations are reflected, for example, in the principle that the shareholder may assert his interest in acting to obtain the declaration of nullity of the resolution approving the financial statements even when the failure to apply understandability has not resulted in a change in income and/or corporate assets.

Therefore, if, on the one hand, it is really that, in order to challenge a null resolution, anyone is always required to have an interest in taking action, on the other hand, it is also true that the position of the holder of share capital appears to be clearly privileged compared to that of third parties external to the company. In fact, if a third party, in order to challenge a shareholders' resolution to approve the financial statements, may have some difficulty in proving the existence of an interest in taking concrete and current action, a shareholder is instead, without a shadow of a doubt, in a much more favourable position, since the interest connected with his right to information does not depend only on the financial advantage deriving from a different and more correct formulation, but also on the fact that the unclear or incorrect information does not allow the shareholder to obtain the information that the financial statements should guarantee to all the subjects interested in the company, whether shareholders or external third parties.

In any case, a final consideration must be given regarding the "difficulty" that a third party who is not a shareholder may encounter in proving the existence of a concrete and current interest in challenging a resolution that approved an untrue and/or unclear financial statement. In the opinion of the writer, if it is real that a shareholder is undoubtedly facilitated in proving the interest to act, it is also true that, given the unanimity of opinions regarding the recognition to third parties external to the companies of a right to understandability and faithful representation in measurement of the economical facts object of accounting of the company, even the position of those who do not own shares of share capital does not seem absolutely problematic. The acceptance, by both scholars and judges, of the existence of a genuine right to information guaranteed to any person outside the company who has an interest - even if only of mere correct and understandability information - in the company publishing the financial statements may be interpreted as a circumstance that facilitates the demonstration of an interest in acting if the approved financial statements do not fully satisfy the right that is unanimously recognised to the community. This recognition is also due to the perceived need for comparability of financial statement data, which cannot be achieved if understandability is lacking and incomplete (De Franco G., S. P. Kothari and R.S...Verdi, 2011; Rankin, M., Stanton, P., McGowan, S., Ferlauto, K., & Tilling, M., 2012).

The Lack of Understandability and Penal Consequences: The Qualitative False in Financial Reporting

The misapplication of the understandability postulates, if the faithful representation in measurement of the economical facts objects of accounting is ascertained (Nobes,C.W., Aisbitt S.,2001; Hopwood, A. G., 2000), has consequences on the intelligibility of the values and on the understanding of the real economic, patrimonial and financial situation of a company. The understandability does not affect the values, but exclusively the form of the documents making up the financial statements.

The penal consequences of the misapplication of the understandability postulate have long been the subject of swings in doctrinal positions. For decades, especially on the occasion of the promulgation of reforms concerning the so-called " penal false financial statements" (*rectius* false social communications), scholars have been confronted with the possibility that formal errors not involving any quantitative change in income and/or assets would have penal consequences (imprisonment or criminal fines), therefore, falling within the false social communications with what follows at the penal level.

If false accounting does not lead to quantitative changes of a financial or income nature, the falsehood is defined as "qualitative". On the qualitative false it has been much discussed in how much, in front of scholars who excluded the possibility that financial reportings characterized by faithful representation in measurement of the economical facts object of accounting could be considered "false", there were authors that they thought a similar possibility realizable if there were the extremes of the so-called qualitative false. It is evident that the qualitative falsehood is part of the problem of the absence of understandability, while the false evaluation presents interconnections with the non-application of the postulates of faithful representation in measurement of the economical facts object of accounting (Barth M. E 2014 ; Wagenhoferb, A., Göxa R.F., 2009).

In the period prior to the 2015 reform, the Italian Civil Code provided for quantitative thresholds below which the penal law could not be applied. The fact that there were these thresholds was one of the arguments most used by scholars to deny the existence of a "qualitative false" because, in the presence of true and correct values, it was impossible to speculate on a falsehood of corporate communications.

Before 2002, the year of penal reform about not correct financial reporting, in which these quantitative thresholds were imposed, most scholars agreed that false quality could be penalty punished. The situation, as highlighted above, underwent a revival with the 2002 reform and the introduction of quantitative thresholds. In such a situation, many authors began to deny the hypothesis that the qualitative falsehood; that is, the mere lack of understandability, could still be considered criminally relevant.

The 2015 reform has overcome these objections and, at the state of the art, it is possible to affirm that the interpretation of the regulations leads to the belief that the "qualitative false" is penalty punishable. Penal false corporate communications, including qualitative ones, are therefore punished with imprisonment from one to five years unless the facts are minor. In this case, the sentence is from six months to three years in prison. Materiality, therefore, also has an impact on any false quality.

The position that the false quality of the company's communications also constitutes a penal offence was confirmed in 2016 by the Supreme Court, i.e. the Court that issues the final civil and penal judgement. This Court definitively reaffirmed the existence of false valuation, i.e. related to the subjective evaluations in the financial statements and, at the same time, pointed out that even the recording of values entered with incorrect titles and/or in the absence of understandability involves the penalty crime of false corporate communications with the penal consequences associated with these offences, consequences that are translated into imprisonment.

In the light of even the most-recent jurisprudential position, it is therefore, possible to affirm that the absence of understandability or the simple inclusion in the financial statements of accounting items that are incorrect from a formal point of view gives rise to a penal offence punishable by imprisonment and, which can be defined, for its technical characteristics, as " qualitative false".

By way of mere example, it may be recalled that “qualitative false” in financial reporting occurs, for example, when:

- A gain on disposal of investment (multi-year asset) is recorded in the financial statements under net characteristic revenues;
- An contingent profit (or windfall profit) is included in characteristic sales revenues.

- An account identified as a loss on disposal of investment (multi-year asset) or a contingent loss (o windfall loss) is, realty, cost connected with the characteristic activity of the company (cost of sale, administrative costs, selling costs or other characteristic costs) ;
- A debt is recorded as a fund for future risks and charges.;
- Short-term securities and participations are included in fixed assets or vice versa;
- There is an allocation of maintenance and renovation costs for an asset other than that to which, in reality, they relate;
- A receivable is recognised as a short-term asset (i.e. it is collectible within 12 months) when, in reality, it is a long-term item (i.e. it is collectible beyond 12 months);
- A debt is recognised as a short-term liability (i.e. it is payable within 12 months) when, in reality, it is a long-term liability (i.e. it is paid over a period exceeding 12 months);
- The short-term part (i.e. subject to payment within the following 12 months) of a debt or credit is not highlighted.

In all the cases mentioned above (Hopwood, A.G., 1972), the value of the company's assets and income does not change from what it would have been if the information in the financial statements had been qualitatively correct. There is no doubt, however, that the formal inaccuracy of the accounting indication, while giving rise "only" to a qualitative picture that is different from the reality, may be highly misleading for third parties outside the company. There is no doubt, therefore, that "qualitative false" is a penal offence even if all valuations are correct, and the value of the company's assets and income has not changed as a result of this offence.

Consider (Brownell P., 1995), for example, when the short-term part of receivables and payables is incorrectly indicated, so that the short-term financial equilibrium indices (liquidity and current ratios) are shown as positive trend values, when in reality the evolution is negative. It should be remembered that the division between the short-term and the long-term portion, imposed by the Italian Civil Code for receivables and payables, has no implication on the overall amount of the account, the value of which does not change with the change in the proportion between short and long term.

Assume that the current ratio, resulting from the contrast between short-term assets and short-term liabilities, has these values:

year n-1: 1,3
year n : 1,5.

It is well known, on the one hand, that the reference value, to be taken with great caution since it depends on the sector to which the company belongs and on the composition of its short-period assets and liabilities, is about 1.5 and, on the other, that the upward trend represents a beneficial element since it shows an improvement in the situation in the short term. In comparison with the above values, the opinion of a potential customer, for example, could be favorable as the short-period static financial situation appears to be optimal and even improving.

Clearly, if the short-term data, even if they do not quantitatively affect the amount of the assets and/or income for the financial year, were falsified and do not correspond to the truth, the falsehood of the financial statements would only be qualitative and not evaluative.

If the 'actual' data, given correctly, had led to an current ratio of:

year n-1: 0,9
year n : 0,7

The opinion of the third party outside the company - the potential customer - was quite different from that which could be expressed based on the false data. In fact, clearly the "real" trend of the values indicates a not inconsiderable short-term static financial difficulty which, potentially, could make the hypothetical client take a different decision from the one he would take if he read the "qualitatively falsified" values.

The "qualitative false" leads to a misrepresentation of the company's situation, which can have a significant impact on the decisions that third parties may take vis-à-vis the company. Even if the third party only had an interest in knowing the company's situation, this would be seriously compromised if a "qualitative false" is of particular tenuousness had been committed (Hopwood, A.G., 2009). As a result, understandability has a dual value: it is relevant in the civil field and develops its effects in the criminal field. This position has also been taken up by the judiciary.

It is evident that, if the administrators realize (Hopwood, A. G., 1973; Hopwood, A. G., 1976) the "qualitative false", even with unmodified income and assets, the information about the company situation can suffer such high distortions that it totally invalidates the communication destined to the outside (Adelberg, A. H., 1983). In fact, if a company has characteristic revenues higher than its characteristic costs, it produces a typical positive operating income, a sign of "company health"; if, on the other hand, the income derives almost exclusively from non-characteristic and exceptional elements (e.g. gains on disposal of investment or contigent profits (or windfall profits), etc.), entrepreneurial management shows more or less significant signs of income inefficiency, ineffectiveness and asphyxia.

From these considerations, it is easy to understand how attributing an incorrect title to an account, invalidating the understandability of the balance sheet, even in the presence of a quantitatively truthful income, causes an extremely high communicative damage. It is therefore, clear why in this period, in which attention is focused on external economic and financial communication (Ballwieser W., G. Bamberg, M.J. Beckmann, H. Bester, M. Blickle, R. Ewert, A. Wagenhofer and M. Gaynor 2012; Barth M.E., 2008; Burchell S., C. Clubb, A. Hopwood, J. Hughes, J. Nahapiet, 1980; Wagenhofer, A., 2003), qualitative forgery is considered realisable and, like all forgeries, is considered a criminal offence.

In order to avoid judicial traffic jams and legal injustices, the Civil Code establishes that minor acts are punished with lighter penalties than those provided for in the case in which the facts discovered are of significant entity. Furthermore, the law establishes that, for not being punishable due to the particular tenuousness of the fact, the judge must evaluate, in a prevalent manner, the entity of the eventual damage caused to the company, to the shareholders or to the creditors consequent on the incorrect facts recorded in the financial statements.

To conclude these brief considerations on "qualitative false", it should be noted that the criminal offence requires a subjective involvement not foreseen for civil invalidity of the resolution approving the financial statements. In fact, while the nullity of such a resolution can be decreed for lack of understandability (Patel C, Day R., 1996) due, for example, to ignorance of the law or accounting principles or errors made in good faith (Hopwood, A.G., 1990).), the offence of false corporate communications may be attributed to directors, general managers, managers responsible for preparing the company's financial reports, statutory auditors and liquidators if two subjective conditions occur: they knowingly present material facts that are not real or omit material facts that are not true, the disclosure of which is required by law, on the economic, equity or financial situation of the company or group to which it belongs, in a manner concretely likely to mislead others (Jones M., Smith M., 2014).

The awareness of the crime and the willingness to mislead others are therefore, the two subjective elements necessary for the lack of clarity to be included in the definition of the penal offence. For civil invalidity, on the other hand, there is no need for any correlation with the desire to deceive third parties or with the awareness of implementing behavior that does not comply with the law. Hence the substantial difference between the civil invalidity of the decision approving the financial statements due to a lack of understandability and the penal "qualitative false".

References

[1] Adelberg A.H., (1979) A Methodology for Measuring the Understandability of Financial Report Messages, Journal of Accounting Research ,Vol. 17, No. 2 , pages 565-592.

[2] Adelberg, A.H., (1983)"The accounting syntactic complexity formula: a new instrument for predicting the readability of selected accounting communications", Accounting and Business Research, Summer 1983, pages 162-175
[3] Alexander D., Britton A , Jorissen A., (2007) International financial reporting and analysis, Thomson.
[4] Alexander D., (1993) A European true and fair view?. European accounting review, vol 2, issue n. 1.
[5] Alexander, D. and H. R. Schwencke (1997). Accounting changes in Norway: a description and analysis of the transition from a continental towards an anglo-saxon perspective on accounting. 20th Annual Congress of the European Accounting Association. Graz, Austria.
[6] Alexander, D. and H. R. Schwencke, (2003). Accounting change in Norway, European Accounting Review vol. 12, issue 3, p. 549-566.
[7] Alexander D., Jermakowicz E, (2006).A true and fair view of the principles/rules debate, Abacus, Vol. 42, n. 2.
[8] Alexander, D., Nobes C. (2013). Financial accounting: an international introduction, Pearson.
[9] Ankarath N., KJ Mehta K.J., Ghosh T.P., Alkafaji Y.A. ,(2010), Understanding IFRS fundamentals: international financial reporting standards, John Wiley and Son.
[10] Ballwieser W., G. Bamberg, M.J. Beckmann, H. Bester, M. Blickle, R. Ewert, A. Wagenhofer and M. Gaynor (2012). Agency theory, information, and incentives. Springer Science & Business Media.
[11] Barth M.E., (2008) Financial Reporting Transparency , The Journal of Accounting, Auditing, and Finance, Vol 23, Issue 2, , pages. 173-190.
[12] Barth M. E (2014)., Measurement in Financial Reporting: The Need for Concepts, Accounting Horizons, Vol. 28, No. 2, pages. 331-352.
[13] Rachel F. Baskerville R.F., Rhys H., (2014), A Research Note on Understandability, Readability and Translatability of IFRS, Accademic Paper.
[14] Beest F., Braam G., Boelens S., (2009)Quality of Financial Reporting: measuring qualitative characteristics, NiCE Working Paper 09-108, April
[15] Benston, G. J., M. Bromwich, R.E. Litan, and A. Wagenhofer, (2006). Worldwide financial reporting: The development and future of accounting standards. Oxford University Press.
[16] Burchell S., C. Clubb, A. Hopwood, J. Hughes, J. Nahapiet, (1980). The roles of accounting, organizations and society, Accounting, Organizations and Society, Vol. 5, issue 1, Pages 5-27.
[17] Burchell S., C. Clubb A.G. Hopwood (1985). "Accounting in its social context: Towards a history of value added in the United Kingdom", Accounting, Organizations and Society, Vol. 10, issue 4, pages 381-413.
[18] Brownell P., (1995)Research Methods in Management Accounting, Coopers & Lybrand.
[19] Cristea, S. M. and Saccon, C. (2008) Italy between applying national accounting standards and IAS/ IFRS, in Romanian Accounting Profession's Congress (Bucharest: CECCAR).
[20] Delvaille, P., Ebbers, G. and Saccon, C. (2005) International financial reporting convergence: evidence from three continental European countries, Accounting in Europe, 2(1), pp. 137–164.14
[21] De Franco G., S. P. Kothari and R.S..Verdi (2011). "The Benefits of Financial Statement Comparability", Journal of Accounting Research, Vol. 49, pages 895–931.
[22] Di Pietra R, McLeay S., Riccaboni A.,(2001) "Regulating Accounting Within the Political and Legal System",Contemporary Issues in Accounting Regulation, Chapter 3, Pages 59-78, Springer.
[23] Ewer, Sid R. , (2007), Transparency and Understandability, But for Whom? The CPA Journal; New York Vol. 77, Fasc. 2, pages16-18,20-22.
[24] Godfrey J.M., , Chalmers K., (2007) Globalisation of Accounting Standards, Edgar Elgar.
[25] Haller, A. (2002)Financial accounting developments in the European Union: past events and future prospects, European Accounting Review vol 11 issue 1, pages 153-190.

[26] Haller A, P. Walton and B. Raffournier B. (2003). International accounting. Cengage Learning EMEA.
[27] Haller A., B. Eierle (2004). The adaptation of German accounting rules to IFRS: a legislative balancing act, Accounting in Europe Vol. 1, Issue 1, pages 27-50
[28] Hopwood, A.G. (1972). "An Empirical Study of the Role of Accounting Data in Performance Evaluation", Journal of Accounting Research, Vol. 10, pages 156-182.
[29] Hopwood, A. G. (1973). An accounting system and managerial behaviour. Lexington Books.
[30] Hopwood, A.G. (1974). Leadership Climate and the Use of Accounting Data in Performance Evaluation, The Accounting Review, Vol. 49, No. 3, pages 485-495.
[31] Hopwood, A. G. (1976). Accounting and human behavior. Prentice Hall.
[32] Hopwood, A.(1987). "The archeology of accounting systems", Accounting, organizations and society, vol. 12, issue 3, pages 207-234.
[33] Hopwood, A. G. and Peter Miller (1994). Accounting as social and institutional practice. Vol. 24. Cambridge University Press.
[34] Hopwood, A.G., (1999). "Situating the practice of management accounting in its cultural context: an introduction". Accounting Organizations and Society, Vol. 24, Issue 5-6, pages 377-378.
[35] Hopwood, A.G. (1983). "On trying to study accounting in the context in which operates", Accounting, Organizations and Society, Vol. 8, No. 213, pages. 287-305.
[36] Hopwood, A. G., (1990). "Ambiguity, Knowledge and Territorial Claims: Some Observations on the Doctrine of Substance Over Form", British Accounting Review, Vol. I. pages 79-87.
[37] Hopwood, A.G. (1990). "Accounting and the pursuit of efficiency", Accounting, Auditing & Accountability Journal, Vol I, pages 238-249.
[38] Hopwood, A. G. (2000). "Understanding financial accounting practice", Accounting, Organizations and Society Volume 25, Issue 8, pages 763–766.
[39] Hopwood, A. G., (2007). Whither accounting research?, The Accounting Review vol. 82, issue 5, p. 1365–1374.
[40] Hopwood, A. G., Chapman C. S., Shields M. D. (2007a). Handbook of management accounting research. Volume 1, Elsevier.
[41] Hopwood ,A. G., Chapman C. S., Shields M. D. (2007b). Handbook of management accounting research. Volume 2, Elsevier.
[42] Hopwood ,A.G., (2008). "Changing Pressures on the Research Process: On Trying to Research in an Age when Curiosity is not Enough", European Accounting Review, Vol. 17, Issue 1, pages 87-96.
[43] Hopwood, A.G., (2009). "Accounting and the environment", Accounting, Organizations and Society, Vol. 34, Issues 3–4, pages 433–439
[44] Hopwood, A.G., (2009). "The economic crisis and accounting: Implications for the research community", Accounting, Organizations and Society, Vol. 34, Issues 6–7, pages 797–802.
[45] Jonas G.J., Blanchet J. (2000), Assessing Quality of Financial Reporting, Accounting Horizons, Volume 14, Issue 3 , pages 353-363
[46] Jones M., Smith M., (2014) Traditional and alternative methods of measuring the understandability of accounting narratives, Accounting, Auditing & Accountability Journal, Volume: 27 Issue: 1, pages 183-208
[47] Morton J.R., (1974) Qualitative Objectives of Financial Accounting: A Comment on Relevance and Understandability, Journal of Accounting Research, Vol. 12, No. 2, pages 288-298.
[48] Mouritsen, J., K. Kreiner (2016). Accounting, decisions and promises", Accounting, Organizations and Society, Vol 49, pages 21-31.
[49] Nobes, C.W., Aisbitt S. (2001). "The True and Fair Requirement in Recent National Implementations", Vol. 31, No. 2, pages 83-90.

[50] Nobes, C. W., M. Gee and A. Haller (2010).'The Influence of Tax on IFRS Consolidated Statements', Australian Accounting Review, Vol. 7, No. 1, pages 97-122.
[51] Nobes, C.W., (2013). "The continued survival of international differences under IFRS", Accounting and Business Research, Vol.43, No.2, pages 83-111.
[52] Nobes C. (2016). Towards an Assessment of Country Effects on IFRS Recognition Decisions and Measurement Estimations, Paper, Venezia.
[53] Nobes C. , Parker R., (2016), Comparative International Accounting, Pearson.
[54] Nobes C.W., , Stadler C. (2015) , The Qualitative Characteristics of Financial Information, and Managers' Accounting Decisions: Evidence from IFRS Policy Changes , Accounting and Business Research, Vol 45, Issue 5, pages 572-601
[55] Oderlheide, D. (2001). Transnational Accounting, Macmillan, London.
[56] Patel C, Day R., (1996) The influence of cognitive style on the undersandability of a professional accounting pronunciement of by accounting students, The British Accounting Review, Volume 28, Issue 2, Pages 139-154
[57] Rankin, M., Stanton, P., McGowan, S., Ferlauto, K., & Tilling, M. (2012). Contemporary Issues in Accounting. Milton, Qld.: Wiley & Sons.
[58] Schoen, W. (2004) International accounting standards – a 'starting point' for a common European taxbase? European Taxation, vol 44, issue 10, Pages. 426–440.
[59] Wagenhofer, A. (2003). "Accrual-based compensation, depreciation and investment decisions." European Accounting Review, Vol. 12, Issue 2, pages 287-309
[60] Wagenhofer, A. (2006). "Management accounting research in German-speaking countries", Journal of Management Accounting Research vol. 18, Issue1, pages 1-19.
[61] Wagenhoferb, A., Göxa R.F. (2009). "Optimal impairment rules", Journal of Accounting and Economics, Vol. 48, Issue 1, pages 2–16.
[62] Yuthas K., Rogers R., Dillard J.F., (2002) Communicative Action and Corporate Annual Reports, Journal of Business Ethics, Volume 41, Issue 1–2, , pages 141–157.
[63] Zeff S.A., (2013) , The objectives of financial reporting: a historical survey and analysis, Journal of Accounting and Business Research , Volume 43, - Issue 4, pages 262-327.