

Only a comprehensive approach that includes legislative changes, increasing law enforcement efficiency, and active involvement of public organizations can ensure a real reduction in cases of forced labor in Ukraine and guarantee the protection of fundamental labor rights of citizens.

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CRIMINAL LAW PROTECTION OF CRYPTO-ASSET OWNERSHIP UNDER THE DRAFT OF THE NEW CRIMINAL CODE OF UKRAINE

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Modern society is rapidly evolving, which leads to the emergence of new types of legal relationships. One such development is the legal regulation of crypto-asset ownership. In June 2022, the UN Conference on Trade and Development (UNCTAD) reported that Ukraine ranked first in the world in the number of cryptocurrency owners among its population during the Covid-19 pandemic [1]. This widespread popularity of crypto-assets among the population cannot be ignored by lawmakers, and therefore, when drafting new regulatory acts, it is necessary to ensure an adequate level of criminal law protection for the ownership rights of crypto-assets.

By Decree of the President of Ukraine No. 584/2019 dated August 7, 2019, *On the Commission for Legal Reform*, a working group on the development of

criminal law was established within the Commission for Legal Reform [2]. One of the primary tasks of this group was to improve criminal legislation, taking into account the contemporary challenges that society faces. To achieve these objectives, the working group has prepared a draft of the new Criminal Code of Ukraine which introduces fundamentally new approaches to the classification of criminal offenses and the determination of penalties for them.

Section 6.1 of the draft Criminal Code is dedicated to criminal offenses against property. A novelty of this Code is that the concept of property includes digital items [3]. At the same time, in civil law, crypto-assets are also commonly classified as digital things. This wording, adopted by the working group, significantly alters the approach previously accepted in criminal law doctrine, under which the notion of “another’s property” was limited exclusively to physical (tangible) objects.

However, the text of the draft Criminal Code contains certain inconsistencies: the dispositions of Articles 6.1.4 – 6.1.6, 6.1.10, and 6.1.18 define the object of theft as another’s movable property. A similar provision arises from the definition of “theft” provided in Article 1.1.1, which restricts the object of theft exclusively to movable property [3].

The problematic nature of this definition lies in the fact that movable items, according to the classical understanding, must possess, among other things, two main characteristics: movability (the ability to change location in space) and materiality (having spatial dimensions, volume, and weight) [4, p. 8]. However, using the example of the most well-known crypto-asset, Bitcoin, it becomes evident that crypto-assets do not meet either of these characteristics.

Firstly, Bitcoin has no spatial boundaries and exists solely as an electronic record in the blockchain. Any physical objects (including coins bearing the ₿ symbol) may serve only as a physical representation of public and private keys that provide access to a Bitcoin wallet, but they are not Bitcoin itself.

Secondly, all records of Bitcoin transactions are maintained in a distributed ledger (blockchain), copies of which are stored on a vast number of network nodes located worldwide. In other words, there is no “digital movement” from one computer to another, as the transaction is recorded simultaneously on the equipment of all network participants.

Thus, while the draft of the new Criminal Code has expanded the concept of “another’s property”, it simultaneously narrows the definition of theft by restricting it to offenses involving the appropriation of movable property. Notably, the current Criminal Code does not formally limit the object of theft exclusively to movable items, this interpretation emerged through legal doctrine and was reinforced by judicial practice.

For the sake of fairness, it should be noted that under the draft of the new Criminal Code (Section 7.7), certain actions aimed at the stealing of crypto-assets may be classified as criminal offenses against the security of information systems, specifically those directed at the transfer of virtual currency. However, the issue

lies in the fact that the main object of legal protection of Section 7.7 of the new draft Criminal Code is primarily the security of information systems, not property.

Furthermore, the corpus delicti of criminal offenses outlined in Articles 7.7.3 to 7.7.6 covers only those infringements where the objective element is manifested through hacking or the use of malicious and spyware software (through which an offender gains access to passwords for custodial wallets, private keys, or seed phrases), etc. Meanwhile, other methods of stealing crypto-assets (e.g., through physical assault or deception) cannot be classified either as criminal offenses against property or, even less so, as criminal offenses against the security of information systems.

Thus, in order to protect the ownership rights to crypto-assets, the provisions of the draft Criminal Code need to be finalized to ensure punishment for actions aimed at the illegal appropriation of crypto-assets. In particular, the problem can be solved by supplementing Section 6.1 with a separate article that will provide for criminal liability for the theft of crypto-assets. This proposal will be the subject of further research.

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OBLIGATIONS AND FUNDAMENTAL FREEDOMS OF THE STATE IN THE DECISIONS OF THE EUROPEAN COURT OF HUMAN RIGHTS

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Introduction. Under Article 1 of the UN Convention, the High Contracting Parties undertake to respect human rights and to ensure them to everyone within their power [1]. There are two main obligations of the State – negative and positive. Negative obligations are responsibilities not to interfere with the rights and freedoms of individuals. Positive ones, on the other hand, are obligations of the State to take certain steps to enable individuals to enjoy the rights under in the Convention. The sphere of religion is of no exception.