

Description for general public

As a participants in business activity, we have deeply rooted habit that funds which we use in our daily payments have been created, either by specialized state structures or by organizational units dealing with banking activities. In addition, we assume and trust in advance in the fact that the funds we have obtained or used, have, guaranteed by the state, power of effective remission of monetary obligations up to the amount specified in the nominal value. Both these manners, although not always true, results from simple assumption that in territory of country, monetary system should be safe and secure. The perpetrators of such crimes often abuse that trust which money or its surrogates are endowed with, which generates important obligations on legislator, on the one hand to keep pace with the constantly evolving technological progres, on the other hand to protect extremely important legal good in the most adequate and full manner way.

The aim of the research is an analysis of the origins, internal structure type of offence under the art. 310 § 1 of criminal code and deriving conclusions resulting from confirmation or falsification of selected research hypotheses. The first of them will be an attempt to answer the question about suitability of the examined prohibited act up to the current technical and technological conditions related to the need to make business activities with partners, as a part of non-cash transaction system, using electronic money. In addition, important for the money protection by criminal law and interpretation of art 310 § 1 of criminal code it will also be a consideration of, the previously unseen aspect, of cryptocurrencies, in particular bitcoin. The second hypothesis will be the issue of compliance and scope of penalization of crime under art. 310 § 1 of criminal code with the requirements imposed on the Republic of Poland by EU's legislation and ratified international agreements. The third research problem is an attempt to answer the question about the choice of means and methods of criminal protection native currency, by other than the Republic of Poland countries, excluding states of the common law system, and embedding Polish regulation in this way on other models of criminal liability for the money forgery.

To keep the order it should be mentioned that the type of a prohibited acts called 'money forgery' occurred in all penal codifications of the Republic of Poland since independence and is a serious threat to the functioning of the state economy, due to the possibility of disturbing the safety of finance and the confidence of market's participants to the credibility of securities or documents constituting their surrogate. Moreover, type of crime under art. 310 § 1 of criminal code is closely related to the proper functioning of economic system, economic crimes and with the computer crimes. Examining only the essence of money, other means of payment and securities will require an interdisciplinary view and comprehensive research going far beyond the area of criminal law.

Demanded analysis will be based not only on the point of view of dogmatic and theory of criminal law, but also civil and administrative law, exposed in all published and available sources. Recognizing the inderdisciplinary nature of the issue, the author can not ignore the suggestions included in the Supreme Court's and common's courts judicial decisions, as well as guidelines and internally binding acts in public administration, in particular National Bank of Poland and the Financial Supervision Authority. Taking into consideration the already mentioned interdisciplinary nature of the research problem, the multidimensional context and the necessity to undertake legal comparative considerations, the research forming the subject of this proposal will present a serious contribution to the current state of knowledge relating to the protection of money and its substitutes by criminal law.

Despite the passage of over 80 years and many changes that have occurred, in particular in the political and economic system, it is suprising that the crime did not find wider approval among representatives of Polish criminal law science and were not the subject of broader considerations. That state of affairs was not affected by the transition from a centrally controlled economy to the model of the social market economy, as well as a significant expansion of normative acts in the field of criminal law, economic and administrative law and their constant amendments. In addition to deliberations of a contributing and piecemeal nature, in Polish criminal law doctrine is in vain to seek comprehensive and interdisciplinary considerations relating to crime regulated under art. 310 § 1 of criminal code. This is a disturbing and unsatisfactory situation for many reasons that will be subject of detailed considerations.

Obtained research results will be the basis for developing postulates of changes in Polish law aimed at effective counteracting money forgery, other means of payment and defined under art. 310 § 1 of criminal code documents.