

The indicated features of punishments suggest that the pecuniary punishments are the measures of state coercion prescribed by law on criminal liability which are applied by a court sentence to persons found guilty of committing a crime and consist in the limitation of the rights of convicts in accordance with law in order to satisfy their property interests.

Pecuniary punishments are of a preventive nature: they are aimed at preventing from committing new crimes, as well as committing crimes by other means. They are not intended for bullying, revenge, humiliation of human dignity, but to restore justice. Thus, the aim of pecuniary punishments is to influence the consciousness of the convicts by causing material constraints.

Pecuniary punishments of property shall be placed in the system of punishments in the following order: 1) corrective labor; 2) fine; 3) service restrictions for servicemen; 4) confiscation of property.

The above reasons suggest the possibility to change the sequence of normative fixing of punishments in their system: in subpara 1 para 1 of Art. 51 of the Criminal Code of Ukraine provide a punishment in the form of corrective labor, and in para 2 - a fine.

*Hryha Maria,  
Senior Researcher of the Scientific  
Laboratory of Problems of Counteraction  
to Crime of the National Academy of  
Internal Affairs (ESI № 1), PhD in Law*

**SUBJECTIVE SIDE OF ILLEGAL ACTIONS WITH TRANSFER  
DOCUMENTS, PAYMENT CARDS AND OTHER MEANS OF ACCESS  
TO BANK ACCOUNTS. ELECTRONIC MONEY, EQUIPMENT FOR  
THEIR PRODUCTION**

Under the subjective part of a crime is understood its inner side, that is, the psychic activity of the person, reflecting attitude of her consciousness and will to committed socially dangerous act and its consequences [2, p. 129]. Proceeding from fact that the crime provided for in Art. 200 of the Criminal Code of Ukraine, has a formal composition, the definition of its socially dangerous consequences, the

desire for their onset or their conscious admission are optional (optional) features of this crime. But at the same time, willful moment of intent (desire or conscious assumption) extends to the very act.

The subject of awareness as an element of intent when committing a crime envisaged in art. 200 of the Criminal Code of Ukraine, there are: 1) the subject of a crime (means of payment), through awareness of which a person who performs a socially dangerous act, also realizes the object of the crime (that is at least in general terms, the fact of encroachment on public relations, protected by a criminal law) . Obviously, this is due to the awareness of the features of the crime, which in scientific sources are regarded as universal (general), inherent in each crime object (these are cases where the subject is a mandatory feature of the subject of a crime), such as: social, physical, legal (normative) [4, p. 67–73; 3, p. 8, 9] signs, as well as special attributes – informative, imperative and functional (special) purpose of these objects; 2) the actual part of crime committed in connection with illegal actions of transfer documents, payment cards and other means of access to bank accounts. Varieties of such acts are: a) forgery of transfer documents, payment cards and other means of access to bank accounts; b) their acquisition; c) their storage; d) their use; e) their transportation for the purpose of selling counterfeit documents for transfer or payment cards; e) sales of forged documents for transfer, payment cards and other means of access to bank accounts; 3) the social danger of the act, that is, the characteristic (at least in general terms) of the object of the crime and the social color of its objective side.

The foregoing makes it possible to conclude that the guilty party is aware of the factual side (the nature and manner of the act) and the public danger of unlawful acts with transfer documents, payment cards and other means of access to bank accounts, as well as the subject of the crime (means of payment) and its features and, accordingly, realizes the object of the crime. Consequently, the subjective part of the investigated crime is characterized by direct intent, since, while committing the actions indicated in Art. 200 of the Criminal Code of Ukraine, a person can not but want to implement them, and hence – and causing damage to the object of criminal law protection. As it follows from the contents of Part 1 of Art. 200 of the Criminal Code of Ukraine, as well as the analysis of the object, object

and objective side of illegal actions with documents for transfer, payment cards and other means of access to bank accounts, the mandatory feature of the subjective aspect of this crime is the goal.

The purpose of crime –is an ideal image of desired result, to which criminal seeks, committing a socially dangerous act [1, p. 184]. As follows from the disposition of Part 1 of Art. 200 of the Criminal Code of Ukraine, a person at falsification of payment facilities pursues a certain goal - their sale. This goal is also connected with the use of such means. Of course, the actions specified in Part 1 of Art. 200 of the Criminal Code of Ukraine, taking into account the subject of the crime under consideration, are committed not by themselves, but for subsequent use of counterfeit means of payment. This follows from the nature of subject of this crime and the main feature of its objective side –»forgery» of payment means. Their use may be carried out by a person who has forged the payment instrument or by other persons. In the first case, a person is forging a payment instrument and uses it himself; in the second one – the person who forged payment means, sells it to other persons who received this product and subsequently used it for a functional (special) purpose. At the same time, when using this medium, the goal is to initiate the illegal transfer of money, including the unlawful seizure of them. The purpose of selling, as a rule, is the desire to get money illegally.

When purchasing, storing, transporting, sending false documents for transfer or payment cards, the purpose of all actions is the sale of counterfeit means of payment.

Therefore, each act of investigated structure of crime has its purpose. Certain goals, although different from each other, are grouped together in a chain of consecutive actions, changing each other – from primary (sales) to secondary (use) and so to ultimate goal –initiating the transfer of funds and misappropriation of them. In the case of the sale of counterfeit means of payment, the offender usually receives money (or property) from the person whom he sells them illegally. In turn, a person who uses counterfeit means also receives money illegally (or for the purpose) by means of illegal transactions (transfer of funds) made by tampering with the said means of payment.

Consequently, ultimate goal of the crime envisaged in Art. 200 of the Criminal Code of Ukraine (both in sales and in the use of

counterfeit payment means), we consider receipt of illegal means of money (or property). But qualification of the crime in question in each case depends on specific actions of guilty person and specific purpose for which they were committed (sale, use of counterfeit means, receipt of money or property illegally). But fact of taking possession of money is outside the scope of the crime provided for in Art. 200 of the Criminal Code of Ukraine and requires additional qualification.

In Part 1 of Art. 200 of the Criminal Code of Ukraine states that the special purpose of fake, acquisition, storage, transportation, sending of false documents for transfer or payment cards is the special purpose – the sale of the specified objects. At the same time, the purpose of use of counterfeit means of payment in course of these actions is not provided for in the law, which, in our opinion, is a gap in legislation. As already noted, when falsifying payment means, the guilty person (in terms of the mechanism of a criminal offense) has purpose (secondary) of use of these funds for access to bank accounts and unlawful initiation of transfer of money. Thus, at the time of acquisition, and during storage, and during transportation, and when sending for the purpose of selling counterfeit payment means, there is always a certain goal – using of these items. Consequently, there are no grounds for the decriminalization of the investigated actions, if the purpose of the said acts is the use of these objects by a person who has forged such objects. That is why it is proposed to supplement Part 1 of Art. 200 of the Criminal Code of Ukraine, where, along with the purpose – the sale of counterfeit means of payment, indicate and for another purpose (main) – using of such means. In view of this, we believe that it makes sense to lay down Part 1 of Art. 200 of the Criminal Code of Ukraine as follows: Forgery of documents for transfer, payment cards or other means of access to bank accounts, as well as their purchase, storage, transportation, forwarding for use or sale.

It should be noted that purchase, storage, transportation, forwarding, using of counterfeit means in some cases can not entail criminal liability: for example, when a person does not know that the payment card is forged, and in her turn, someone has provided it for paying the debt, or person has found it and accepted it for the present, etc. In the first case, there is no purpose of the crime – to receive

money or property illegally, in the second – the actions of a person may fall under other articles of the Criminal Code of Ukraine.

Legal evaluation of such actions as forgery of payment means without the purpose of sale or use deserve also. In other words, a person who, for example, for entertainment or in order to demonstrate his so-called «skill», makes payment cards that are similar to original. Instead, they do not have specific information recorded on a magnetic stripe or chip that could be used to carry out illegal transactions. In such cases, there is no purpose of the crime – using or sale of payment cards, as well as ultimate goal – the receipt of illegal money or property. In this case, it can only be about simulating payment cards, and not about tampering them with the purpose of using or selling.

The motive of a crime is the conscious and appreciated impulse generated by the system of needs, which is the ideal ground and justification for a socially dangerous act [1, p. 180]. As already pointed out, the ultimate goal of the crime under consideration is to obtain money or property illegally, which means that its motive is selfish. Of course, in case of illegal actions with payment means, there can be another motivation (revenge, hooliganism, competition, etc.). But named motives can only be additional (optional), which stand behind the main (selfish) and do not affect the qualification of offender.

Based on the study, following conclusions can be drawn:

1. In study of crime provided for in Art. 200 of the Criminal Code of Ukraine, the guilty party is aware of factual side (nature and method) and public danger of illegal actions with transfer documents, payment cards and other means of access to bank accounts, equipment for their production, as well as the subject of a crime (means of payment) and through signs The latter is aware of object of crime (that is, at least in the general sense of the fact of encroachment on public relations, protected by the criminal law) and wishes to do such acts. Consequently, subjective part of crime provided for in Art. 200 of the Criminal Code of Ukraine, characterized by direct intent.

2. When committing an offense under consideration, namely when counterfeiting means of payment, a person sets a certain goal – using or sale of counterfeit means of payment. The purpose of their use is the transfer of orders or information on the transfer of funds between the entities transferring funds or receiving them in cash and

thereby obtaining money illegally. The purpose of selling is to obtain money or property illegally. When purchasing, storing, transporting for sale false documents for transfer, payment cards or other means of access to bank accounts, the purpose of all these acts is the sale of the said means and / or their use. The general purpose of crime envisaged in Art. 200 of the Criminal Code of Ukraine, we consider receipt of illegal means of money or property. But the qualification of the crime investigated in each case depends on the specific actions of the perpetrator and the specific purpose for which they have been committed (sale, use, receipt of money or property illegally).

3. Motive – mercenary, although he serves as an optional feature of this crime.

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***Kisiliuk Eduard,***

*Professor of the Department of Criminal  
Law of the National Academy of Internal  
Affairs, PhD in Law, Associate Professor*

### **NORMATIVE-LEGAL REGULATION OF ECONOMIC SAFETY AS AN ELEMENT OF NATIONAL SECURITY OF UKRAINE**

Issues of legal regulation of Ukraine's economic security are among the most important, complex and multifaceted phenomena of the state's social and political life. In general, security is a state where someone, for some reason, nothing and nobody threatens; At the same time, it is the activity of people, society, state, world community of nations in identifying, preventing, weakening, eliminating and preventing the threat that can lose them, destroy material and spiritual