

The good news is that domestic developments go to the foreign market, which in turn lures new investors for further development and economic development in Ukraine.

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THE SPECIFICITY OF MONEY LAUNDERING WITH THE USE OF CRYPTOCURRENCIES: THE UKRAINIAN EXPERIENCE

The target of the article is to study the place of the cryptocurrencies in the process of money laundering. The subject of the article is to investigate the ways and means of the use of cryptocurrencies for money laundering.

Key words: *cryptocurrencies, money laundering, criminal investigation.*

In today's world, the threat of cyber security is becoming more and more complex, as computer systems are becoming increasingly interdependent, and the number of cyber attacks has grown up steadily. This necessitates the development and improvement of mechanisms and means of effective counteraction to new challenges. So, some countries have developed a new or adapted (criminal) legislation after the signing and ratification of international agreements such as the Cybercrime Convention (2001) [5], while other countries have joined forces and have developed regional platforms such as the European Cybercrime Centre, which began working in 2013, and aims to strengthen the cross-border cooperation and exchange of information.

One of the latest inventions in the world over the past decades was the creation of cryptocurrencies, which are already quite actively used. However, in addition to the positive sides, there are still negative ones, for example, the legalization of proceeds from crime through the use of cryptocurrencies.

It is noteworthy that there are no legislative norms that determine the legal status of cryptology in Ukraine. In addition, according to Article 32 of the Law of Ukraine «On the National Bank of Ukraine», the monetary unit of Ukraine is the hryvnia. The issue and circulation of other monetary units and the use of money substitutes as payment instruments in the territory of Ukraine are prohibited [4]. Also, in its letter No. 29-208/72889 of 8 December 2014, the National Bank of Ukraine determined that the issuance of the Bitcoin currency has no security and legally binding on persons, is not controlled by the state authorities of any country. The National Bank of Ukraine also emphasizes that authorized banks have no legal grounds for enrolling foreign currency received from the sale of bitcoins abroad and warns individuals and legal entities against the use of this currency. The National Bank of Ukraine is also guided by the fact that the European Banking Authority has urged EU banks to refrain from operations with cryptovolumes, including bitcoins, until a system of rules is created that can prevent potential abuse [1].

However, in a letter No. 40-0006/16290 dated 22 March 2018, the National Bank of Ukraine canceled a preliminary document recognizing Bitcoin as a money surrogate. On the one hand, this is a positive step, since it reflects global trends, for example, in the ruling of the European Union Justice Court (Fifth Chamber) of 22 October 2015 in the case of Hedwick v. Sweden, it was stated that cryptography can not be characterized as «Tangible property» within the meaning of Article 14 of the VAT Directive, taking into account that the virtual currency has no other purpose than being a payment instrument [2]. On the other hand, it returns the legal status of the cryptology in its original position of uncertainty. Therefore, research on this issue remains relevant.

In turn, it is possible not only freely exchange cryptology for local or foreign currency in many countries of the world, but also to carry out operations on the sale and purchase of goods, works and services. To a greater or lesser extent, operations with bitcoins have been legalized in Australia, Austria, Bulgaria, Brazil, Israel, Canada, People's Republic of China, Norway, Singapore, the United States of America, Thailand, Germany, Croatia, Switzerland, Japan, and others. In Ukraine, the National Bank of Ukraine, on the basis of the aforementioned article of the Law of Ukraine «On the National Bank of Ukraine», indicated that the bitcoin has no legal status. Due to the peculiarities of the circulation of bitcoins, operations with them are carried out daily in Ukraine.

In science, there is a point of view that despite the widespread use of cryptographic goods worldwide for various types of purchases and transactions, there is no single position on the definition of legal cryptography, as well as its legal status. In addition, the above-mentioned circumstances cause difficulties in the criminal investigation of money laundering using cryptocurrencies. Thus, law enforcement agencies are faced with problems related to the establishment of the identity of criminals and the fact of committing a crime. The main problem faced by law enforcement bodies is precisely anonymity and decentralization [3].

The uncertainty of the legal status of cryptography creates real problems in law enforcement in Ukraine, especially when prosecuted. Thus, the case set

out in the verdict of the Rubizhne City Court of Luhansk Oblast of 13.09.2018 in the case No. 425/2030/18 – a convicted person created for the purpose of using and distributing a malicious software intended for unauthorized interference with the operation of a computer, for the hidden installation of malicious software for the extraction of “crippling” XMR-Monero technical capabilities of “infected” computers (so-called “hidden mining”). As a result of the actions, the convicted person received income, which he subsequently legalized through transactions on various payment cards. The actions of the person were qualified under Article 361-1 of the Criminal Code of Ukraine [6]. However, neither the pre-trial investigation nor the court did not have qualifying acts that had signs of legalization of proceeds from criminal offenses. It is believed that this was due to the uncertainty of the legal status of the crippling currency, as well as the outdatedness of Article 209 of the Criminal Code of Ukraine. The specified determines the urgency and prospect of investigations of crimes in the sphere of cyberspace, including the legalization of the proceeds of crime, with the use of cryptocurrencies.

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