

## CRIMINAL LEGAL PROTECTION OF PROPERTY RIGHTS UNDER THE LAWS OF THE REPUBLIC OF POLAND

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The economic, social and political events which took place in Central-Eastern Europe in 1989 and since which witnessed the end of the Cold War, the dissolution of the Warsaw Pact, the fragmentation of the Soviet Union and the emergence of a united Germany, have set in motion a recasting of the European security order (Carr, 1996; Sperling and Kirchner, 1997). In the new Europe, the concept of security has been broadened from traditional notions of national (military) security to wider concepts of international security, and has necessitated the striking of a new balance between the economic, political and 'order-maintenance' requirements. Security in the Post-cold War is defined increasingly in economic terms and the shadow of war has been displaced by the threat of political and economic chaos in Central and Eastern Europe. The stability of this new order is seen as contingent upon the successful transition of these countries to the market economy and multi-party democracy. A stable economic and political environment is crucial to the transition. Consequently, until the transition is completed and consolidated, issues of political economy must be understood as elements of the new security order [1].

Crimes against property have been a central concern in many societies and cultures throughout history. In the United States, the term property crime typically refers to the criminal offenses of burglary, larceny, fraud, embezzlement, forgery, motor vehicle theft, and arson. Other less known property crimes include pick pocketing, counterfeiting, and shoplifting (a type of larceny). Since the range of activities included- in the property crime definition is vast, the term should be viewed as a representation of offenses that describe material-based criminality in society. In other words, the focus is on crimes against property, not persons [2].

Property crime is defined as incidents where individuals, households or corporate bodies are deprived of their property by illegal means or where their property is damaged. It includes offences of burglary, offences against vehicles, theft offences, fraud, forgery and criminal damage. For the purposes of this report, robbery is also included as a property crime.

Historically, nonviolent theft was broken down into three categories: larceny, embezzlement and false pretenses. The categories differ in the type of property that can be stolen and the method of stealing. Modern jurisdictions combine all three categories of nonviolent theft into one consolidated theft statute, with a uniform grading system largely dependent on the value of the stolen property.

The Criminal Code of the Republic of Poland responsible for the infringement of the property is set in chapter XXXV, entitled "Crimes against property". [3]

Criminal Code of 1997 defines the term “property benefits”, “property of considerable value” and “property of great value” in the glossary provided by law (Art. 115 § 4, 5 and 6 of the Criminal Code).

The current Criminal Code of Poland used the term “movable thing.” In the criminal law literature, however, it emphasized that the evaluation of a thing as moving in the criminal law should be based on its physical properties [4].

Methods of determining the scope of the meaning of «the moving thing» in civil law do not coincide with those of the science of criminal law. The significance of this concept in the criminal law doctrine is advanced. In addition, § 9 of art. 115 of the Criminal Code of the Republic of Poland contain the legal definition of movable property or object.

According to that, movable property or object should be attributed Polish or foreign currency or other payment resources as well as a document that gives the right to receive a sum of money or a mandatory payment of capital, interest, participation in profits or the right to participate in joint activities.

In addition, the Criminal Code there are special types of theft from the point of view on the subject, it is not a “thing”, such as a computer program (Art. 278 § 2), or energy, or card, entitling the holder to obtain money from an ATM (c. 278 § 5). This legislative innovation is related to the modern forms of theft of property, arising from the development of modern technological resources. The consequence of this is that the term “moving object” in the criminal law is not identical with the interpretation of its civil law, because it covers a wide range of things [5, c. 377].

It is necessary to pay attention especially on the three types of crimes defined in the Criminal Code as: theft, misappropriation and fraud, the responsibility for which is provided respectively in art. 278, 284 and 286 of the Criminal Code.

Current Polish law establishes liability for theft in Art. 278 of the Criminal Code and other modified varieties of the offense provided for in the following articles of the Criminal Code.

The basic structure is the crime of misappropriation to misappropriate another’s movable thing. The legislator punishes the action of one who steals a computer program in order to achieve the benefits of property (Art. 278 § 2).

The next type of prohibited conduct is the theft of electricity or card authorizing the transfer right to withdraw money from a bank machine – art. 278 § 5 of the Criminal Code.

Theft, as a general effect for this group of crimes is acquisition of another movable thing for the purpose of assignment. At the same time, we are talking about things that have economic value.

The Criminal Code of Poland does not know the concept of “plundering”. Polish Criminal Code contains only the criminal liability for brigandage. Brigandage (Art. 280 of the Criminal Code) is to capture the opponent’s movable property with the purpose of assignment by using one of the following ways: 1) the use of violence against a person; 2) immediate threat of violence (psychological violence); 3) bringing the person unconscious or defenseless state.

So, the current Criminal Code of Poland, at first sight, it was possible to resolve many controversial positions regarding the understanding of crimes against

property. So, this code provides for equal protection of property, regardless of its form, the subject of property crime is defined as “someone else’s property.” But as rightly point modern Polish scientists and current Criminal Code of Poland is not without drawbacks. So, in order to trace the complete system of criminal legal protection of property, it should be noted that some of the crimes encroaching on property and specified in Chapter XXXV of the Criminal Code, can be attributed to other chapters of the Criminal Code. It is, for example, Art. 290 of the Criminal Code of Poland, which provides for criminal liability for theft as the implementation of cutting down trees in the forest for the purpose of assignment.

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### Soloviova Alina. Criminal legal protection of property rights under the laws of the Republic of Poland

*This article analyzes the question of criminal protection of property under the laws of Poland. In this article revealed the benefits of the Criminal Code of the Republic of Poland in comparison with its predecessor. Author analyzes such offenses as theft and robbery.*

**Keywords:** crime, theft, burglary, robbery, alien property, property damage.

### Соловійова А.М. Кримінально-правова охорона власності за законодавством Республіки Польща

*У статті аналізуються питання кримінально-правової охорони власності за законодавством Республіки Польща. Розкриваються переваги чинного Кримінального Кодексу Республіки Польща порівняно із його попередником. Аналізуються такі склади злочинів як крадіжка та розбій.*

**Ключові слова:** злочин, крадіжка, грабіж, розбій, чуже майно, майнова шкода.

### Соловійова А.Н. Уголовно-правовая охрана собственности по законодательству Республики Польша

*В статье анализируются вопросы уголовно-правовой охраны собственности по законодательству Республики Польша. Раскрываются преимущества действующего Уголовного Кодекса Республики Польша по сравнению с его предшественником. Анализируются такие составы преступлений как кража и разбой.*

**Ключевые слова:** преступление, кража, грабеж, разбой, чужое имущество, имущественный вред.

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