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PROPERTY UKRAINIAN PEOPLE AS OBJECT OF CRIMINAL PROTECTION

Based on the provisions of Articles 5, 6 and 10 of the Constitution (Fundamental Law) of the Ukrainian SSR in 1937 [1], p. 90 of the Civil Code of the Ukrainian SSR in 1963 [10] determined that land, minerals, water and forests are the exclusive property of the state and are only available for use. Relations between personal (individual) property distributed exclusively on employment income and savings, house and auxiliary household, household items and consumer goods, personal consumption and comfort, inherited objects. The same rule establishes that the state owns the basic means of production in industry, construction and agriculture, transportation and communications, banks, property of state-trading, utilities and other enterprises, the main urban housing and other property, necessary for the tasks of the state. Under this system the Special Part of the Criminal Code of the Ukrainian SSR in 1960 [6] contained two separate chapters, which established separate grounds of criminal responsibility for crimes against the state and collective (socialist) property (Chapter II) and crimes against personal (individual) property citizens (Chapter V). The land, its minerals, water, forests and their individual components by subject economic (economic) crimes under Title VI of the Criminal Code of 1960. But February 7, 1991, the Law № 697-XII "On property" [7], according to ch. 5. 2 where it was determined that property in Ukraine exists in various forms and levels of government creates conditions for the development of all forms of property and their protection. Position h. 1 tbsp. 9 shows Law determined that the land, its mineral wealth, airspace, water and other natural resources of its continental shelf and exclusive (maritime) economic zone, are objects of exclusive ownership of the people of Ukraine. Besides the exclusive property rights of the people of Ukraine, the Law of individual chapters were devoted to other forms of property rights: 1) right to private property (section III); 2) the right of collective ownership (Section IV); 3) the right of state property (Section V). Accordingly, subjects of property rights are recognized: the people of Ukraine, citizens, legal entities and state (ch. 1, Art. 3 of the Act). To date given law repealed, but its provisions defined direction of civil law

and regulation of relations on various forms of ownership, remained unchanged and its development came in the Constitution of Ukraine [2] and the Civil Code of Ukraine in 2003 [9] (hereinafter - Civil Code of Ukraine). Changes to establish equality of all forms of ownership were taken into account in the development of design systems Special Part of the Criminal Code of Ukraine in 2001 [5] (hereinafter - the Criminal Code of Ukraine), which currently contains only the section in which the combined group of crimes against property (Chapter VI) and approaches to the definition of the crime of crimes of this group, which is alien to the perpetrator property is property that does not belong to the wine's ownership. However, the main task of the Criminal Code of Ukraine is to ensure legal protection governed by other branches of law, from criminal attacks. As for the regulation of property relations (Civil Affairs), based on legal equality, free will, property independence of their members, which is the ownership relations person for a thing (property), a task entrusted to the Central Committee of Ukraine and that it is determined by the content of these relations. The above should be considered in determining how the generic nature of the object crimes under Title VI of the Criminal Code of Ukraine and content property (things) as a subject relevant socially dangerous attacks. The basis of establishing grounds of criminal responsibility for crimes against property are the provisions of Art. 41 of the Constitution of Ukraine and art. 321 CC of Ukraine concerning the inviolability of property rights. The above fully reflected in the theory of criminal law of Ukraine, because any relationship is only possible on the common, single object for them, which is always part of the range of human needs, and this circumstance causes the appearance and functioning relations (natural objects and various goods or items with attributes of goods) [8, p. 83]. In crimes against property (Chapter VI of the Criminal Code of Ukraine) generic object act as legal property, and property (thing) is also the subject of a legal and subject the vast majority of crimes of this group. Property in its proprietary understanding serves as a necessary (required) feature of crimes against property, as specified directly (named) in the law on criminal responsibility. V.Y. Tatsiy stresses that in many cases the legislator in the criminal law specifies only a certain type of objects, thereby determining that any of the items of this type has the same significance for criminal responsibility [8, p. 93]. Simultaneously, Today criminal law actually left unattended other than legislative consolidation of private, state and municipal ownership is also a fourth of its forms - property of the Ukrainian people. Present ownership not only directly under Art. 13 of the Constitution, but settled centuries. 324 CC of Ukraine. Revealing the property of the Ukrainian people (the subject of crime in criminal law), ch. 1, Art. 324 CC Ukraine actually

reproduces the provisions of Art. 13 of the Constitution and determine that they are: land, minerals, air, water and other natural resources within the territory of Ukraine, natural resources of its continental shelf and exclusive (maritime) economic zone. Certainly, classification given property of the Ukrainian people for crimes against property items can be criticized on three main grounds. First, land, minerals, air, water and other natural resources, the natural resources of the continental shelf have so-called social attributes object crimes against property associated with its development work on distinguishing humans or the environment [3, with. 352]. In this regard, it is necessary to emphasize the absence of any legal grounds for such a separation characteristics and its existence at all. According to ch. 1, Art. 190 CC of Ukraine, the thing is the subject of the material world, for which there may be civil rights and obligations. The above fully applies to things as object crimes against property. Without a doubt, such rights and obligations as may arise regarding the phenomena of the world in which people work was invested (which zmaterializovana human labor), and similar phenomena (things) belonging to the ownership and have an appropriate value that is not due human labor. The presence today in the science of criminal law Ukraine signs social subject property crimes caused some throwback Institute of ownership Soviet times. Second, referring to the unreasonableness of their respective crimes against socially dangerous encroachment on the above property of the Ukrainian people can be reasonable grounds available today criminal liability, provided certain standards of Chapter VIII of the Criminal Code of Ukraine "Crimes against the environment." Simultaneously, generic object above group attacks typically recognized public relations environment as a set of objective conditions of human existence and the source of life, its prosperity and development [4, p. 266]. Injury (or a threat of infliction) referred to relations in case of illegal (illegal) seizure, appropriation, use, damage or destruction of the land, its mineral resources, air, water and other natural resources, natural resources of the continental shelf does not exclude nor absorbs causing harm relations corresponding to the aforementioned properties. Thirdly, it is clear that the subject of legal property protected as a generic object corresponding group of crimes, and crimes against property subject to harakterystyzlochyniv, accordance with Section VI of the Criminal Code of Ukraine are the same. However, along with the subject and the subject of public relations crime must isolate and subject criminal influence - the element protected by criminal law, public relations, which is exposed to direct criminal influence and which, therefore, primarily causes harm [8, p. 103]. Analysis of the mechanism of injury in the case of crimes against property suggests that on unlawful behavior on objects of

ownership does not destroy property relations and does not damage. But from such socially dangerous behavior is limited to the owner in their right use and dispose of their property, that is deprived of the opportunity to realize the meaning of property relations, make a certain kind of activity. This social communication, content ownership relations of things, in the case of offenses under the group, and is the subject of criminal influence. Currently, determining the content of property relations, ch. 1, Art. 317 states that it is the right of possession, right to use and to dispose of property. Regarding ownership as the content of property relations of the Ukrainian people, p. 13 of the Constitution of Ukraine and art. 324 CC Ukraine contain identical provisions on ownership possession of relevant objects is the people of Ukraine. But concerning the right to use and dispose of such property any clear mechanism for their implementation in law exists. The Constitution states that every citizen has the right to use the natural property of the people according to the law. Regulation ch. 2, Art. 324 CC provides guidance, that on behalf of the Ukrainian people's right owner exercising public authorities and local authorities within the limits set by the Constitution of Ukraine. This mechanism of property rights actually identifies the implementation of the right to use and dispose of property of the Ukrainian people with objects upon by the powers of public authorities and local governments and that they are on the right of state or municipal property. However, provided their time art. 10 Law of Ukraine "On property" right of the people through a referendum Ukraine to decide on the legal status of natural objects, their use and protection, and the right of citizens of Ukraine in person and through community organizations, labor groups, bodies of territorial public self participate in consideration of issues related to the use and protection of natural resources today can not be implemented due to terminate the above Act. On the one hand, the problem of determining the order of use and disposal of property of the Ukrainian people in the constitutional and civil law of our country does not preclude the classification of illegal encroachments on these objects to the group of crimes against property in the criminal law of Ukraine. On the other hand, no clear and defined at the legislative level mechanism for implementing the people of Ukraine the right to use and dispose of land, its minerals, air, water and other natural resources that are within the territory of Ukraine, natural resources of the continental shelf and exclusive (maritime) economic zone in its sole discretion, subject formulation prevents criminal influence (assault), establishment of a "mechanism" of injury to property, to identify the circle of socially dangerous acts, as well as determine the size and nature of their implications in criminal law of Ukraine. It is obvious that solving these issues in the civil law of Ukraine should be

consistent with the provisions of ch. 6. 319 CC (the state does not interfere with the exercise of the owner of property), ch. 1, Art. 321 CC (ownership is inviolable, no one may be unlawfully deprived of rights or limited in its implementation) and ch. 3. 324 CC (every citizen has the right to use the property of the Ukrainian people).

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