

**CRIMINAL LIABILITY FOR VIOLATION OF THE RULES
ON TRANSACTIONS WITH PRECIOUS METALS AND PRECIOUS STONES**

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In accordance with the rules of transactions with precious metals and stones, approved by the Council of Ministers of the Republic of Belarus dated November 25, 1999 № 1838, as the subject of the crime are precious metals and precious stones in any form and condition – gold, silver, platinum and platinum group metals: iridium, rhodium, palladium, as well as jewelry and household products [6].

The problems of improving the criminal law and the protection of illegal turnover of precious metals, natural precious stones dedicated to the work of M.V. Arzamastseva, V.B. Volzhenkin, L.D. Gauhman and S.V. Maximov, V.A. Dokuchaeva, T.V. Dosugovoj, A.N. Ivanova, I.A. Klepikova, M.P. KARPUSHINA, A.P. Kuznetsov, A.G. Korolev, V.D. Larichev, N. Lopashenko, S.N. Malta, V.T. Pinkevich, I.O. Sokolovoj and other scientists. However, the theory remains controversial number of issues related to the definition of the legal nature of object and subject, the objective side of this crime [7].

According to the Law of the Republic of Belarus "On precious metals and precious stones" conclusion of transactions with precious metals and precious stones between citizens located on the territory of the Republic of Belarus, if such transactions are not related in accordance with the legislation of the Republic of Belarus with entrepreneurial activity is not allowed, except in cases:

- their donations, including donations;
- wills and their acquisition by right of inheritance;
- purchase and sale and exchange for the purpose of collecting and thesaurus (accumulation) of coins from precious metals;
- purchase and sale of jewelry and other household products having an impression of the state assay of the Republic of Belarus or an impression of the state assay of the USSR [6].

According to article 170 of the Civil code of the Republic of Belarus (hereinafter – the civil code), there may be cases of invalidation of this transaction. According to Art. 170 of the civil code, the transaction, the Commission of which is prohibited by law, is void. If you have the intention of both sides of the transaction – in the case of execution of the transaction by both parties – income of the Republic of Belarus collected all they received in the transaction, and in the case of execution of the transaction by one party from the other shall be recovered in revenues of the Republic of Belarus all got it and all of its outstanding first side (reimbursement received). If there is an intention of only one of the parties to such a transaction, all received by it under the transaction shall be returned to the other party, and received by the latter or owed to it in compensation for the executed shall be recovered in the income of the Republic of Belarus [1].

From the above it can be concluded that the transaction will be invalid on the grounds established by the civil code and other legislative acts, by virtue of

its recognition by the court (disputed transaction) or regardless of such recognition (void transaction).

In criminal law, violation of the rules on transactions with precious metals and precious stones committed in violation of the established rules in a large amount is punishable by a fine, or correctional labor for up to two years, or arrest, restriction of liberty for up to three years, as well as imprisonment for the same term [5].

It can be concluded that the criminal law sanctions against this type of crime are more stringent, in contrast to civil law [5].

It should be noted that legal entities and individual entrepreneurs can also engage in certain activities with precious metals and precious stones only on the basis of a special permit (license) obtained in accordance with the legislation of the Republic of Belarus. However, if a legal entity or an individual entrepreneur does not have a special permit (license), when such permission is required under article 233 of the Criminal code of the Republic of Belarus (hereinafter – In accordance with article 174 of the civil code, a transaction made by a legal entity in conflict with the objectives of its activities or by a legal entity that does not have a special permit (license) to engage in the relevant activities may be declared invalid by the court at the suit of the owner of the property (founder, participant) of this legal entity or the state body exercising control or supervision over the activities of a legal entity, if the other party to the transaction knew or by virtue of an act of legislation was obliged to know about its illegality, but she made such a deal intentionally or inadvertently [3].

Violation of the procedure for activities with rare earth metals, precious metals and precious stones has been extended to the Code of administrative offences of the Republic of Belarus (hereinafter – the administrative Code). Guided by article 11.4 of the administrative Code, the repeated offer to citizens for the purpose of buying and selling jewelry and household products made of precious metals, coins, measuring ingots and dentures, scrap of these products, as well as gold and silver, precious stones in raw and processed form (hereinafter-values) is punishable by a fine of ten to thirty basic units, while at the moment one base value is twenty-five rubles twenty-five kopecks [4].

In other words, the national Bank of the Republic of Belarus, as well as authorized banks and legal entities that have the appropriate permits (licenses) of the competent state bodies, have the right to carry out transactions in the territory of the Republic of Belarus to buy from individuals and sell them precious metals in the form of Bank and dimensional bars of gold, silver and platinum, as well as coins made of precious metals (gold, silver, platinum) of old and modern coinage.

The right to purchase and sell cut gemstones intended for jewelry on the territory of the Republic of Belarus belongs to legal entities that have the appropriate permits (licenses) of the State inspection of assay supervision of the Ministry of Finance of the Republic of Belarus.

Thus, in order to ensure the procedure for the circulation of precious metals and precious stones in the country, criminal law measures are used in the Republic of Belarus, which provide for punishment and other measures of criminal liability for violation of the legislation of the Republic of Belarus. Measures are also taken by the administrative and civil branches of law. In case of violation of the rules on transactions with precious metals and stones, and on the basis of article 170 of the civil code, the transaction will be declared invalid by a court decision.

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