

Opaev Asan

Independent applicant at Tashkent state university of law

FEATURES OF MONEY (CURRENCY) AS AN OBJECT OF CIVIL LAW RELATIONS

Abstract:

In this article, based on research from the theoretical and practical point of view of the specific features of money and currency values as a necessary object of civil and business legal relations, taking into account national and foreign experience, the reforms implemented in our country in this area and innovations in lawmaking are highlighted, and also Recommendations and conclusions of the author concerning this sphere are given.

Keywords:

Money, currency, legal relationship, object, subject, national currency rate, currency stability, banknotes and coins, means of exchange, electronic money, credit card, loan, credit, gift, sales contract, supply contract, contractual agreement, universal equivalent, equal price, compensation of material and moral harm.

Actions of subjects of each legal relationship are impossible without an object. It is through the implementation of subjective rights and obligations regarding subjects in the life of society that a system of positive or negative actions arises, which in turn becomes an impetus for development or crisis situations. In this connection, in our view, when disclosing the concept and essence of money and currency values as an object of civil and business law, special attention should be paid to the legal relations arising in connection with them. In this way, you can comprehend the essence of this object. Since each legal relationship has its own object. For example, civil, criminal, environmental, administrative and other rights. But, the relations arising in connection with them are quite different.

The growth of the economy of any state, ensuring price stability in the country and of course the development of many other indicators of

macroeconomic development is determined directly by the stability of the national currency rate. Successful implementation of the tasks set in the sphere of economic liberalization and deepening of reforms aimed at creating a developed market economy in the Republic of Uzbekistan is largely related to the systemic provision of our national currency - sum and the increase in its value (dignity). The first President of the Republic of Uzbekistan Islam Karimov had spoken about the stability of our national currency the following: "Our most important task for today is the transformation of our currency into a strong and authoritative currency throughout the world. It must have high cost and strength. Ensuring the stability of sum and increasing its value is a national task"¹.

Achieving stable economic growth is connected with the successful solution of such topical problems as the steady rise in the living standards of the country's population, the growth of production efficiency, the creation of comfortable conditions for attracting foreign investments to the republic, increasing the country's export potential, and ensuring equal status in international economic and monetary -credit relations most directly connected with the stable turnover of the national currency. The task of finding solutions for further deepening the reform of the financial and monetary system and the formation of a flexible monetary policy of the state, the achievement of price stability, the liberalization of the foreign exchange market, and on this basis the creation of an appropriate foreign exchange reserve also places special requirements for improving currency legislation and ensuring currency stability.

In Uzbekistan, in the first years of independence, a project on the formation of the monetary system was created and through its phased implementation, coupon-coupons were issued, and later - Uzbekistan's own national currency. Being the main element of the national monetary system, Sum serves the interests of society. Therefore, the main task of the monetary system is to strengthen the value of our money. The transition of Uzbekistan in order to achieve economic independence for development in the market conditions, especially the transition to a market economy in our country,

¹ Karimov I.A. On the banking system, monetary circulation, credits, investments and financial stability / Compiled by F.M. Mullajanov .- T .: "Uzbekistan" NMIU, 2005.

dictates the need for the stability of the national currency. In this process, it is important to form an effective system for regulating the turnover of the national currency, further improving and stabilizing the sphere of circulation of currency and credit.

Each sovereign state has its own money, it is possible to acquire certain material goods for this money only in this country. Other countries also have their own money and can legally apply only in these countries. All other money, called currency, is treated under special supervision.

According to the definition of the Russian scientist V.S. Safonova, the term "money" means money in the form of banknotes and coins². For foreign currency, the term "foreign currency" is used. The world currency market is a "foreign exchange market", or else, FOREX.

Money for a long evolutionary development went from the means of exchange in the form of livestock, olive oil, gold and silver bullion to modern electronic money, credit cards. First of all, money as an object of civil law relations includes the category of material values, that is, according to Article 94 of Chapter 7 of the Civil Code, the monetary unit of the Republic of Uzbekistan is sum. Sum is a legal tender, which is obligatory for acceptance at face value. Payments are made in the form of cash and non-cash payments.

The circulation of money in certain types of relations is related to the process of mutual settlements, the cases, procedure and conditions for settlements in national and foreign currencies are determined by law. As Academician Kh. R. Rakhmankulov points out, from the standpoint of civil law, the properties and tasks of money can be expressed in the following:

- Money is consumed in accordance with the law by things determined by generic characteristics;
- Money participates as an independent object in many civil law relations (for example, loan agreements, loans, donations and other transactions);
- Money is equivalent in value to the object in civil law relations (for example, under contracts of sale, supply of products, contracting, etc.);

² V.S. Safonov. "Currency Dealing", ed. JSC "Consultantbanker", Moscow: 2004 P.31

- as a universal equivalent, that is, an object that has an equal price (value) is used to exchange with anything, as well as to compensate for material and moral harm;

- Money plays an important role in the payment of any legitimate debt, regardless of the grounds for its occurrence (for example, due to failure to perform or improper performance of the obligation) through mutual offset, payment, compensation³.

In this regard, it will be appropriate to analyze the legal and scientific approaches to the legal status of money and currency values. First of all, it should be noted that according to Article 81 of the Civil Code of the Republic of Uzbekistan, currency values are included in the category of material goods, acts of the current legislation are applied to them, in general, and a special order. Thus, transactions related to types of property recognized as an object of entrepreneurial legal relations, as well as their execution are determined by the relevant legislative acts on currency regulation.

From a legal point of view, money is money, possessing the properties of the country's money, and also by means of cashless settlement in banks. But, the peculiarities of money, which determine the differences of various obligations and legal relations associated with them, are clarified in the process of fulfilling specific tasks in economic circulation. So, today the money is performed, basically, the following three tasks:

1. measure of price (value);
2. medium of circulation;
3. means of payment⁴.

For this reason, it is these properties of money that serve to define the characteristics of money as an object of private law, as well as the corresponding legal consequences in the sphere of monetary obligations. Proceeding from this, the peculiarities of money as an object of private law can be seen in the following:

First, money is a very useful tool for the economy, that is, it is possible to use money as a means of circulation, assigns to a person using money from someone else's money, regardless of the consequences, to pay interest for

³ Rahmankulov H. Objects of civil law: Textbook. - Tashkent: TJUI, 2009. - P.37-38.

⁴ Borisov E.F. Economic Theory: Textbook. - M.: Jurist, 1997. - P. 125-129.

using money. If the debtor has overdue the payment of the debt, payment of interest is recognized as a compensation of the damage caused to the creditor.

Because, the creditor, using this money independently in conditions of ordinary monetary circulation, could get the benefit. In these circumstances, monetary sanctions for non-fulfillment of the obligation or delay in its execution (articles 245-249 of the Civil Code) should be delineated by the legal nature of interest paid for the use of funds under the loan agreement (Article 732 of the Civil Code) and the loan agreement (Article 744 GK); Secondly, the universalism of money, that is, money, expresses the property of a universal object of civil turnover or a universal means of economic turnover. The general rules arising from the principle of the universality of money are that, if the legal grounds are sufficient, any obligation can be terminated by the payment of money.

In addition, if we consider that any thing has its own monetary price, any obligation can be terminated by transferring property to another person. Therefore, money reflects in itself each subject of property rights, ultimately, it provides money entry into circulation. In addition, money fulfills the tasks of legal application of any property rights⁵.

The economic basis of the universality of money is also evident in the certainty of its generic attributes and the inherent properties of distribution, turnover, and exchange.

At the same time, money plays an important role in the payment of any legitimate debt, regardless of the grounds for its occurrence (for example, because of failure to perform or improper performance of the obligation) through mutual offset, payment, compensation⁶.

From these positions, money as an object of entrepreneurial legal relations is property used in civil circulation as a means of consumption and payment measures, as well as measures of value, as well as property rights. From this, it can be concluded that money as the general essence of all property rights expresses its function through circulation. This function is

⁵ Litovchenko M. Money in civil law. - Kiev: 1987.-C. thirty.; Pobedonostsev K.P. The course of civil law. T.3. Ed. V.A. Thomsonov. - Moscow: Publishing House "Zertsalo", 2003 - P. 21.

⁶ Rahmankulov H. Objects of civil law: Textbook. - Tashkent: TJUI, 2009. - P.37-38.

very important for money, without them, it is impossible to determine the individual properties of a particular object of civil law.

Usually, in business legal relations, all categories of liabilities associated with a monetary currency from a general legal point of view can be divided as follows:

- Repayment of the received loan;
- Payment for goods and services;
- Payment of recognized obligations, etc.

So, as Academician H. Rakhmankulov notes, "objects of civil law can be classified as follows: a) things; B) work; C) services; D) the results of intellectual (creative) activity"⁷.

In this aspect, monetary currency values can also be expressed in the form of property. Today, the main legal act in the sphere of currency regulation is the Law of the Republic of Uzbekistan "On Currency Regulation", according to part one of Article 3 of this law, foreign exchange values, foreign currency securities, payment documents in foreign currency and refined gold bullion are foreign exchange values. Consequently, these civil objects, including entrepreneurial law, serve to illuminate the notion of currency values.

Considering that civil law rules also regulate the procedure for mutual settlement between different actors in the performance of contractual obligations, and in addition there are a number of provisions in the current civil legislation that directly regulate currency relations (Articles 81, 94, 95, 163, 196, 245 of the Civil Code of the Republic of Uzbekistan), a feature distinguishing money and currency values as objects of a civil legal relationship is in the non-cash form of these objects. Of course, the basic laws governing these relations are taken separately, based on the content of the Civil Code of the Republic of Uzbekistan.

As an example, we can point out that as a result of the implementation of a set of measures to expand the system of cashless settlements, in recent years, as of 2006, over 3 million plastic cards have been put into circulation in

⁷ Rakhmankulov H.R. General comment on the first part of the Civil Code of the Republic of Uzbekistan. - Tashkent: ed. The World of Economics and Law, 1997. - P.221.

the country, nearly 12,000 terminals have been installed in trade and services organizations⁸.

From this point of view, first, from the legal point of view the concept of "cashless settlement" can be defined as follows: "non-cash payments are a set of payments made by writing off the corresponding amounts in bank accounts, that is, transferring funds from the payer's settlement account to the beneficiary's settlement account or netting."

According to the Regulation on non-cash payments, when making payments in the above forms, the following payment documents are applied:

- 1) A memorial warrant;⁹
- 2) Payment order;
- 3) A payment request;
- 4) Collection order;
- 5) Application for a letter of credit;
- 6) Settlement checks of commercial banks.

Non-cash payment can be made through the use of plastic cards.

As a rule, mutual settlements between legal entities, as well as mutual settlements between citizens related to the performance of entrepreneurial activities, are conducted in a non-cash form. Mutual settlements between the said persons, unless otherwise provided by law, can be made in cash.

Money and currency values in civil and business relations are recognized as the most important, one might say, necessary object. However, such cases as accumulation of money and currency values in these relations in the hands of one party, or untimely fulfillment of obligations, can entail termination of legal relations, claims of the parties to each other, which will have a negative impact on public development.

President of the Republic of Uzbekistan Sh. M. Mirziyayev in his report on the main results of the country's social and economic development in 2016 and the priority areas of the economic program for 2017, at an expanded meeting of the Cabinet of Ministers, dwelt on this issue and noted: "Further

⁸ Resolution of the President of the Republic of Uzbekistan of August 3, 2006 "On additional measures for the further development of a system of cashless settlements based on plastic cards" for No. PP-433 // Legislative Acts of the Republic of Uzbekistan. 2006, №31-32, st.309.

⁹ A payment document used by banks to make money transfers in a non-cash form upon written instructions from citizens (not related to the business).

strengthening Macroeconomic stability and maintaining high rates of economic growth, in particular, ensuring the balance of the state budget at all levels, the stability of the national currency and prices And the domestic market is our top priority. " At the same time, under the direct leadership of the President, in order to prevent negative situations and solve existing problems in this area, this year, proclaimed "The Year of Dialogue with the People and the Interests of Man," absolutely new approaches and principles for a more consistent and accelerated development of our state in Conditions of sharp changes in the global market environment, increased competition in a globalizing world, aimed at strengthening the legal framework for protecting and guaranteeing the inviolability of private Property, elimination of bureaucratic obstacles in the way of business development. Of decisive importance in this respect is the fact that the Strategy for the Further Development of the Republic of Uzbekistan identifies specific tasks to address the most pressing problems of development and liberalization of the national economy. Today, one of the main issues that make us think about our state and society is to ensure the stability of the national currency and prices in the domestic market.

So, as the Strategy of Action determines, from now on the quarterly the Ministries of Economics and Finance, they must systematically monitor the macroeconomic indicators of the Central Bank, especially the situation on the currency market, if necessary, prepare analytical data on improving the stability of the national currency and prices on the domestic market, maintaining the macroeconomic balance, Ensuring high growth rates of the economy. It also provides for improving the methodology for monitoring the changes in consumer prices (tariffs) for goods and services while detecting the level of inflation. Increasing the responsibility for the artificial growth of prices for goods and services when implemented in a non-cash form makes it possible to introduce market-based mechanisms for managing the formation of prices. At the same time, it is planned to gradually reduce the declaration of prices for goods and services, then in 2020 - its complete cancellation.

To increase the efficiency of work in this area, to ensure the fulfillment of certain tasks, a number of regulatory and legal acts have been adopted, some of which have already been implemented in practice. Thus, in order to further improve the system of non-cash payments in the retail trade and provide paid services to the population, ensure the completeness of accounting and involve cash funds in the bank circulation, and strictly observe the rights and interests of consumers, the Resolution of the President of the Republic of Uzbekistan of February 15, Measures for further improvement of monetary circulation and development of settlements using bank plastic cards "for No. PP-2777¹⁰, addition, in order to radically improve the system of payment of wages, pensions, allowances and scholarships, ensure unconditional protection of the rights and legitimate interests of pensioners, students and other socially vulnerable segments of the population, create favorable conditions for unhindered payments for goods and services purchased by them throughout Territory of the Republic of Uzbekistan, the Resolution of the President of the Republic of Uzbekistan of February 2, 2017 "On additional measures to improve the payment mechanism salaries, pensions, allowances and stipends" for PP-2753¹¹, they positively influenced the solution of the above problems.

As a conclusion it should be said that in the Republic of Uzbekistan the issues of improving the currency legislation, further liberalization of the foreign exchange market, creation of the most favorable and open conditions for foreign investors, elimination of problems arising in the way of subjects of currency legal relations are still one of the most important and topical tasks. There are mutual contacts on cooperation between the Republic of Uzbekistan and the European Bank for Reconstruction and Development, the International Monetary Fund, the International Finance Corporation, the Asian Development Bank and many other international financial institutions. With the help of these international organizations and institutions in the Republic of Uzbekistan, the perfect currency legislation has been developed.

¹⁰ Legislative Acts of the Republic of Uzbekistan, 2017, No. 8, art.113.

¹¹ Published in No. 25 (6719) of the newspaper The People word on February 3, 2017.

Successive measures are being taken to liberalize the monetary system of our country. It should be emphasized that today the system of currency relations and mechanisms for their implementation are subject to quite serious liberalization. Effective measures are being implemented to ensure free conversion of operations in national and foreign currencies, improve exchange and over-the-counter currency markets, simplify the procedure for cash foreign currency, unify exchange rates, improve the enforcement of foreign exchange earnings, and eliminate currency restrictions.

However, there are problems, the accelerated elimination of which will directly affect the systemic development of the country's economy, so, in our country, differences remain between cash and non-cash forms of settlements. At the same time, the illegal importation of imported goods by entrepreneurs, the insufficient level of production of consumer goods, the retention of a larger share of informal trade in retail trade turnover, a larger amount of personal income tax compared to CIS countries, create conditions for violation of currency legislation, Payment of taxes, development of the shadow economy. To eliminate the existing problems, the Ministry of Economy, the Ministry of Finance and the Central Bank should develop measures for the systematic unification of these forms of settlements. For example, it is advisable to ensure the issuance of cash by banks at the first request of customers, set the personal income tax rate at 13%, as in Russia.

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