



LEGISLATIVE BASE OF FINANCIAL AND LEGAL SUPPORT OF THE MONETARY SYSTEM IN THE REPUBLIC OF UZBEKISTAN

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Abstract

The article presents an analysis of the theoretical and practical aspects of the financial and legal support of the monetary system in the Republic of Uzbekistan. The peculiarities of the organization by banks of cash turnover and its legal regulation are indicated. A proposal is made on the need to develop and adopt a special legislative act on the monetary system and monetary circulation.

Keywords: monetary system, monetary circulation, legislation, regulations, Central Bank, cash turnover, bank.

The solution of the tasks of the effective organization of the monetary system in the country largely depends on the order of relations related to the implementation of a number of measures to improve the legislative framework of financial and legal support of the monetary system of the Republic of Uzbekistan, which began to form with the proclamation of our country's independence. During the times of the Union state, the issues of monetary circulation were in the exclusive competence of the central bodies of state power and administration. Therefore, the Union republics had to be guided by the acts of the all-Union bodies on all issues of monetary circulation.

Currently, as it is enshrined in the Constitution of the Republic of Uzbekistan, our country has its own unified monetary system (Article 147), which is an indispensable attribute of any sovereign state¹. Before we proceed to the consideration of the legislative framework for the legal support of the monetary system, it is necessary, first of all, to determine its concept.

Various points of view have been expressed in the literature on the concept of the monetary system. Thus, L.L. Arzumanova understands the monetary system as a financial and legal historically formed form of state regulation of monetary circulation, i.e. a constant turnover of money in cash and non-cash forms, expressed in national or foreign currency, the basic principles of which are legally established².

Other researchers believe that the monetary system is "a multifunctional mechanism that includes the following links: the principles of organization and management of the

¹ Новая редакция принята путем всенародного голосования на [референдуме](#) Республики Узбекистан, проведенном 30 апреля 2023 года. //(Национальная база данных законодательства, 01.05.2023 г., № 03/23/837/0241)

² Арзуманова Лана Львовна. Право денежного обращения как подотрасль финансового права Российской Федерации. Автореф. дисс. ... д.ю.н. Москва – 2014. С. С. 26

monetary system, the monetary unit, the scale of prices, types of money and banknotes, the emission mechanism (the issue of cash and non-cash funds), the mechanism of monetary regulation (the head of state, authorities, exercising control and regulation; methods, rules and regulatory instruments), the mechanism of organization and regulation of monetary circulation (in cash and non-cash forms) in the state"³.

The analysis of a number of other scientific views on the conceptual apparatus of the monetary system indicates that traditionally the monetary system is understood to mean the forms of organization of monetary circulation in the country, historically established and fixed by national legislation, monetary unit, types of money and banknotes, etc.

According to the legislation of our republic, the monetary system includes the monetary unit of the Republic of Uzbekistan, the organization and regulation of monetary circulation.

The monetary unit of the Republic of Uzbekistan is the sum, which is the only unlimited legal means of payment throughout the territory of the Republic of Uzbekistan (Article 150 of the Constitution).

The introduction of a full-fledged national currency, the sum, into circulation on the territory of Uzbekistan on July 1, 1994 marked the beginning of a new stage in the development of market reforms and was an important factor in stabilizing the economy, strengthening the financial, credit and monetary system of the state. The strategic course of the current stage of reforms is to further strengthen the sum, ensuring its free exchange for hard currencies.

Currently, the system of banknotes of our republic consists of banknotes and metal coins. In the modern practice of organizing monetary circulation in various countries, inscriptions on banknotes that they are provided with gold and other jewels, "all the property of a particular state or bank that issued these banknotes into circulation, are becoming increasingly rare." For example, in the former Union State, such inscriptions were available on State Bank tickets in denominations of 10, 25, 50 and 100 rubles. There were no corresponding inscriptions on the State Treasury tickets in denominations of 1, 3, 5 rubles, i.e. their bank security was not established by law, but they actually applied on the same principles as the tickets of the State Bank.

The absence of the once traditional inscriptions on the methods of collateral on the banknotes of most countries and banks is currently associated with the generally accepted provision that banknotes are secured by all assets of the issuing bank. The legislation of the respective countries on money circulation, including our state, is developing along the same path. So art. 40 of the Law of the Republic of Uzbekistan dated November 11, 2019 "On the Central Bank of the Republic of Uzbekistan" (new edition)⁴ stipulates that banknotes in

³ Гудкова Марина Валентиновна. Денежная эмиссия и денежное обращение в Российской Федерации: особенности финансово-правового регулирования. Автореф. ... дис. к.ю.н. Саратов – 2021. С.14

⁴ (Национальная база данных законодательства, 12.11.2019 г., № 03/19/582/4014; 12.10.2021 г., № 03/21/721/0952; 30.03.2022 г., № 03/22/760/0249, 21.04.2022 г., № 03/22/765/0332)



circulation are unconditional obligations of the Central Bank and are secured by all its assets. In this regard, of course, there is no need for a special indication on each monetary unit about the method of its provision. establishes that the banknotes in circulation are unconditional obligations of the Central Bank and are secured by all its assets. In this regard, of course, there is no need for a special indication on each monetary unit about the method of its provision.

Modern banknotes are issued directly by the state or on its behalf by a bank authorized by it, but in any case they are one of the attributes of a sovereign state, a symbol of state independence. This is the common wealth and heritage of any country.

In our country, the authorized bank is the Central Bank of the Republic of Uzbekistan, which, according to the Constitution of the Republic of Uzbekistan, has the exclusive right to issue and withdraw from circulation banknotes as legal means of payment on the territory of the Republic of Uzbekistan (Article 150).

The monetary system of the state is regulated by the norms of various branches of law, among which the norms of financial law occupy a special place. It is with their help that the main elements of the monetary system of the state are established, which include the name of the monetary unit, the types of banknotes that have legal tender, the procedure for issuing and circulation of money (collateral, issue, withdrawal, etc.), the competence of state bodies that carry out monetary circulation.

In addition to financial law, other branches of law regulating certain issues of this system are also relevant to the monetary system. Thus, the norms of constitutional law determine the foundations of the monetary system and monetary circulation. The norms of civil law regulate relations arising from the commission of civil transactions with banknotes (loan agreement), settlements under civil contracts, etc. The norms of administrative and criminal law are mainly related to the establishment and application of State enforcement measures for offenses in the field of the monetary system. These are, for example, administrative and criminal liability for committing illegal currency transactions with the monetary unit of the Republic of Uzbekistan, criminal liability for counterfeiting banknotes, etc.

Monetary circulation as an element of the monetary system of the state arose with the advent of regular commodity exchange and the formation of a commodity market and the development of commodity-money relations in this regard. The change of forms of value in commodity exchange, i.e. the transformation of goods into money, and the subsequent use of money for the purchase of new goods determine the need for their constant movement.

There are many opinions in the literature on the issue of the conceptual apparatus of monetary circulation, and first of all economists. In particular, from the point of view of S.K. Semenov, "Monetary circulation is an abstract economic category that is not measured in specific units, but is characterized by a set of economic indicators that are already measured in certain units."⁵ At the same time, it should be noted that the concept of monetary circulation is used by many representatives of economics to characterize the movement of cash exclusively. In this sense, the concept of monetary circulation used by economists differs from such a concept used in legal science.

⁵ Семенов Сергей Константинович. Методология и механизмы денежного обращения в России. Автореф. дис. ... д.э.н. Волгоград – 2008. С. 14.



Representatives of legal science associate monetary circulation not only with the movement of cash, but also their movement in non-cash forms. So, in their opinion, money circulation is "the process of continuous movement of money in cash and non-cash forms"⁶, "the movement of money supply within the country in cash and non-cash forms"⁷, which serves the circulation of goods, as well as payments and settlements", "the process of cash flow in cash and non-cash forms in the economic turnover of the state based on certain principles that are based on and follow from the provisions of the legislation of the country in order to effectively regulate the money supply."⁸

Thus, monetary circulation is the movement of money in cash or non-cash form, serving the circulation of goods, as well as non-commodity payments and settlements.

Cash circulation is served by banknotes (banknotes and metal coins). Cash in circulation performs the functions of a medium of circulation and a means of payment. As a means of payment, they are used not only for the circulation of goods, but also for settlements that are not directly related to the process of commodity sale (payment of wages, pensions, allowances, insurance amounts, payment of taxes, payments for housing and communal services and other payments).

In non-cash money circulation, there is no cash as a means of payment. They are debited by institutions of the banking system from the account of one subject of monetary relations and credited to the account of another subject. Non-cash money circulation makes it possible to significantly reduce the amount of cash in circulation, contributes to the concentration of funds by concentrating them in banks, facilitates the organization and regulation of money circulation in general.

There is a very close connection between the circulation of cash and non-cash money turnover. On the one hand, cash flows to the population (with the exception of turnover between individual groups of the population) from the bank accounts of enterprises, organizations and institutions (for example, wages). On the other hand, retail and catering enterprises and other organizations that provide paid services to the population for cash transfer them to bank accounts that can be used by them, including for non-cash payments.

The fundamental financial and legal norms specifically devoted to the monetary system and the organization of monetary circulation are enshrined in chapter 6 of the Law on the Central Bank. This section contains the legal basis of the monetary system of Uzbekistan, the powers of the Central Bank to issue banknotes, the procedure for the manufacture and storage of banknotes, the requirements for the use of banknotes in circulation, as well as the procedure for making payments, issuing cash banknotes and withdrawing them from circulation (Articles 39-46).

⁶ Финансовое право: учебник. - 2-е изд., перераб. и доп. / отв. ред. Е.Ю. Грачева, Г.П. Толстопятенко. - М.: Проспект, 2010. С. 328.

⁷ Финансовое право: вопросы и ответы / Артемов Н.М., Ашмарина Е.М. - М.: ИД «Юриспруденция», 2006. С. 128.

⁸ Гудкова Марина Валентиновна. Денежная эмиссия и денежное обращение в Российской Федерации: особенности финансово-правового регулирования. Автореф. дис. ...к.ю.н. Саратов – 2021. С. 17.



The legislative bases of monetary circulation are specified in the regulatory legal acts of the Central Bank of the Republic of Uzbekistan, which are mandatory for all individuals and legal entities on the territory of the Republic of Uzbekistan. They come into force from the date of their official publication, unless a later date is specified in the acts themselves.

The regulatory legal acts of the Central Bank regulate both cash and non-cash money turnover. They provide for two modes of legal regulation of money turnover: 1) the procedure for organizing work on the circulation of cash by banks; 2) the procedure for making non-cash payments in the forms provided for by the Civil Code of the Republic of Uzbekistan.

The organization of cash circulation by banks in the Republic of Uzbekistan is carried out on the basis of a regulatory act of the Central Bank⁹, which determines the procedure for organizing work on cash circulation by banks of the Republic of Uzbekistan.

The Central Bank of the Republic of Uzbekistan, in order to form a cash reserve in the territories and store cash not released into circulation, organizes reserve funds in the Main Departments of the Central Bank of the Republic of Uzbekistan in the Republic of Karakalpakstan, regions and the city of Tashkent (Main Departments).

Commercial banks and their branches (banks) are required to organize revolving cash desks, as well as a cash reserve to meet customer demand in cash in a timely manner.

Banks regularly study and analyze the state of cash circulation, as well as ensure timely satisfaction of the needs of the population and business entities in cash. Based on the analysis of the state of cash circulation and the indicators characterizing it, banks can develop and submit proposals to local government authorities aimed at receiving cash at the bank's cash desks, timely meeting the needs of the population and economic entities in cash.

On the territory of the Republic of Uzbekistan, limits of cash balances should be established for the circulating cash registers of the Settlement and Cash Centers (RCC) of the Main Departments.

The limits of the cash balance in the circulating cash desks of the RCC of the Main Departments are set by the Central Bank taking into account the characteristics of each territory and, if necessary, are changed.

Business entities may have cash in their cash registers within the limit of cash balances in the cash register. The procedure for setting the limit of the cash balance in the cash registers of economic entities applies only to economic entities that have their own separate deposit account in banks, as well as their own cash register.

The limit of the cash balance in the cash registers of business entities is set annually by banks in agreement with business entities, taking into account the money turnover and the conditions of their work on the basis of the payment certificate provided by the client. The limits of the cash balance in the cash registers of economic entities are set in the following order:

The amount of the established limit of the cash balance in the cash register of an economic entity may be revised during the year, if necessary. If the amounts of cash turnover of business entities engaged in trading activities are not large, the cash limit remaining in the

⁹ Инструкция об организации работ по наличному денежному обращению банками Республики Узбекистан (Утверждена Постановлением правления ЦБ от 24.02.2018 г. N 7/14, зарегистрированным МЮ 01.05.2018 г. N 3003) с последующими изменениями и дополнениями.



cash register at the end of the day, with the consent of the heads of such business entities, may be approved by the bank for 2 years.

Business entities have the right to keep cash in their cash desks in excess of the established limits only for the payment of wages and equivalent payments (allowances, pensions, scholarships and other social payments) for a period not exceeding 3 working days, including the day of receipt of money from the bank. After this period, cash received from the bank and unused for its intended purpose must be returned to the bank's cash desks.

Business entities are not allowed to collect and accumulate cash in their cash desks for upcoming expenses in excess of the established limit.

The cash balance in the cash desks of business entities at the end of the day should not exceed the limit set by the servicing bank. A part of the cash balance in the cash register of an economic entity exceeding the established limit must be deposited on its deposit account with the bank.

When setting the limit of the cash balance of business entities that include divisions that do not have an independent balance sheet and a separate deposit account with the bank, the cash balances of these structural divisions should also be taken into account.

The established limit of the cash balance of such economic entities is brought to its structural divisions on the basis of the order of the head of this economic entity.

The terms and procedure for the delivery of cash proceeds are determined by the banks in agreement with the head of the business entity on the basis of a certificate of the client's calculations.

Banks are constantly monitoring the timeliness of the delivery of cash proceeds by business entities.

The issuance of cash to the population and all economic entities from the banks' cash desks is carried out within the limits of funds on their deposit accounts in banks for the purposes specified in the cash documents.

Banks ensure uninterrupted cash disbursement to the population and business entities upon their first request. At the same time, cash disbursements from bank cash desks to customers are carried out primarily for the payment of wages and equivalent payments, pensions, scholarships, travel expenses, as well as the return of their deposits to the population and the payment of interest accrued on them.

To economic entities, including budget organizations, cash for wages and equivalent payments, other social payments, scholarships are paid from banks' cash registers on the basis of their collective agreements or other local acts within the time agreed with the servicing bank.

When agreeing on the timing of the issuance of cash to business entities from banks' cash registers for wages and equivalent payments, banks, if possible, take into account the need for an even distribution of customers receiving cash on all days of the month (amounts of cash they receive from banks' cash registers).

In order to streamline the cash reserve and achieve timely and complete satisfaction of customers' cash needs, banks monthly compile a "Calendar of cash Disbursements from the bank's cash registers for wages and equivalent payments." It specifies the agreed terms for the issuance of cash to business entities and the specific amount of cash issued by month, and all amounts of cash issued from the bank's cash register for wages and equivalent payments are paid. The calendar does not include the amounts of payments transferred to employees of

economic entities through postal communication enterprises, as well as funds transferred to bank deposit accounts or bank plastic card accounts of individuals by cashless settlement.

Cash for the payment of wages and equivalent payments may be issued to business entities earlier than the deadline set in the calendar, based on the receipt of cash at the bank's cash desk. If the terms of payment of wages and equivalent payments, social benefits, scholarships coincide with weekends or holidays, cash for the payment of these payments is issued by banks to business entities one day earlier.

When an economic entity terminates an employment contract with its employees or when employees go on labor leave, when calculating with employees of non-standard (non-scheduled) composition, as well as for travel expenses, cash is issued to these economic entities by banks regardless of the terms set in the calendar.

The issuance of cash by banks to customers is carried out, first of all, at the expense of cash in the circulating cash desks of banks, as well as the cash reserve. They must take measures to meet the needs of customers for cash at the expense of the revenue available in their cash registers and expected receipts from all sources.

In order to meet the cash needs of customers, banks analyze the daily cash turnover, including cash on hand, as well as the sufficiency of the cash reserve, taking into account the expected cash receipts during the day to carry out cash expenditures.

Assessing in general the existing legislative framework of financial and legal regulation of the monetary system and monetary circulation, it should be noted that in general it meets the needs of ensuring stability and strengthening of the national currency - sum.

However, there are some problems. First of all, this concerns the regulatory material regulating cash transactions. The current procedure for the implementation of cash transactions, which is not always justified based on rather strict legal norms, does not correspond to the expansion and deepening of the processes of economic liberalization. A cardinal solution to the problems of increasing the efficiency of financial and legal support of the monetary system and monetary circulation in the Republic of Uzbekistan is seen in the development and adoption of a special legislative act. In it, taking into account the importance of this problem for the progressive development of socio-economic processes in the country, the main provisions of the monetary system and monetary circulation should be comprehensively defined. These provisions relate to the fundamentals of legislation on money circulation, its principles, taking into account international experience in regulating money circulation, etc.

References:

1. Конституция Республики Узбекистан. Новая редакция принята путем всенародного голосования на референдуме Республики Узбекистан, проведенном 30 апреля 2023 года. //(Национальная база данных законодательства, 01.05.2023 г., № 03/23/837/0241)
2. Закон Республики Узбекистан от 11 ноября 2019 года «О Центральном банке Республики Узбекистан» (новая редакция) // (Национальная база данных законодательства, 12.11.2019 г., № 03/19/582/4014; 12.10.2021 г., № 03/21/721/0952; 30.03.2022 г., № 03/22/760/0249, 21.04.2022 г., № 03/22/765/0332)



3. Инструкция об организации работ по наличному денежному обращению банками Республики Узбекистан (Утверждена Постановлением правления ЦБ от 24.02.2018 г. N 7/14, зарегистрированным МЮ 01.05.2018 г. N 3003) с последующими изменениями и дополнениями.
4. Арзуманова Лана Львовна. Право денежного обращения как подотрасль финансового права Российской Федерации. Автореф. дисс. ... д.ю.н. Москва – 2014. - 44 с.
5. Гудкова Марина Валентиновна. Денежная эмиссия и денежное обращение в Российской Федерации: особенности финансово-правового регулирования. Автореф. дис. ...к.ю.н. Саратов – 2021. – 38 с.
6. Семенов Сергей Константинович. Методология и механизмы денежного обращения в России. Автореф. дис. ... д.э.н. Волгоград – 2008. – 40 с.
7. Финансовое право: учебник. - 2-е изд., перераб. и доп. / отв. ред. Е.Ю. Грачева, Г.П. Толстопятенко. - М.: Проспект, 2010.
8. Финансовое право: вопросы и ответы / Артемов Н.М., Ашмарина Е.М. - М.: ИД «Юриспруденция», 2006.