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ANALYSIS OF THE DIGITAL RUBLE MODEL

Abstract

The need to preserve digital sovereignty in the sphere of national money circulation to ensure the economic stability of the Russian economy predetermines the creation of a national digital currency. The relevance of the research topic is due to the Concept of the digital ruble presented by the Central Bank of the Russian Federation, which requires scientific and legal comprehension.

The article analyzes various doctrinal approaches to the definition of money, the digital ruble.

The author proceeds from the Concept of money in economics to the definition of money in jurisprudence. Further, the article examines the movement of money in their historical development: cash, non-cash and digital. The digital form of money movement is considered a new digital form of money that combines the features of non-cash money and cryptocurrencies.

Based on a comparative analysis of the features of cash as things, non-cash money as rights of claim, and digital money as digital objects in the context of the Concept of the digital ruble, the author concludes that it is the legal form of a digital object that most closely matches the economic form of movement of digital money.

In the light of the Concept of the digital ruble, the legal Concept of digital currency, enshrined in the Federal Law "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russian Federation" dated July 31, 2020 N 259-FZ, has been analyzed. The author concludes that this Concept does not quite correspond to the generally accepted content of the term "currency", which denotes the official monetary unit, even in the case of the development of legislation based on the Concept of the digital ruble.

It is concluded that a digital ruble is a new form of movement of the national currency - digital.

Key words: digital ruble, digital ruble concept, digital sovereignty, money.

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Аннотация

В статье анализируют актуальные доктринальные подходы к пониманию цифровых денег, цифрового рубля.

На основе сравнительного анализа свойств наличных денег, безналичных денег как прав требования, цифровых денег как цифровых объектов в контексте Концепции цифрового рубля, обосновано, что правовая форма цифрового объекта наиболее соответствует экономической форме движения цифровых денег.

Проанализирована Концепция цифрового рубля сквозь призму федерального закона «О цифровых финансовых активах, цифровой валюте и о внесении изменений в отдельные законодательные акты Российской Федерации» от 31.07.2020 N 259-ФЗ. Автор резюмирует, что понимание валюты, обозначающего по общему правилу, официальную денежную единицу, в указанных документах не вполне коррелируют друг с другом.

Сделан вывод о новой цифровой форме движения национальной валюты.

Ключевые слова: цифровой рубль, концепция цифрового рубля, цифровой суверенитет, деньги

Introduction

One of the main trends in the digital economy is the elimination of intermediation. The digitalization of the financial sector entails similar consequences, as evidenced by the main theses of the Concept of the Digital Ruble (hereinafter - the Concept), prepared by the Central Bank of Russia^[1]. The analysis of the Concept leads to the conclusion that the intermediation of commercial banks is minimized due to the introduction of new forms of money functioning.

The monetary unit is the most important element of the monetary system of the state.[\[2\]](#) . The monetary unit is clothed in the form of the functioning of money, which changes in the process of its development. Currently, we are witnessing a transformation of the form of functioning of third-order money: cash, non-cash, digital.

This transformation is global, taking place all over the world. From a doctrinal point of view, it requires a rethinking of the Concept of money as a legal institution, including protecting national interests[\[3\]](#) .

The article uses an integrated interdisciplinary approach. Its application made it possible to consider money as an economic and legal category from the private legal regulation of digital money. This approach allows us to reliably assert the economic determinism of the legal regulation of digital money and the forms of their functioning in private legal relations.

Money as an object of civil rights

Money as a universal equivalent performs several functions: a measure of value, a medium of circulation, a means of payment, a means of accumulation, world money.

Thus, the emergence of a monetary obligation from the sale of goods means that money in a particular case has fulfilled its function of a measure of value, and this has led to the establishment of a price that determines the measure of the buyer's obligation. When such an obligation is fulfilled, money will act as a means of payment, i.e. in that function that directly follows from their role as a means of circulation [\[4\]](#) .

As L.A. Lunts, although there are some specific indications in the legislation that a particular item should be considered as money, in no legislation can one find a definition of the general Concept of money [\[5\]](#) . This statement corresponds to the historical process of changes in the forms of the functioning of money. As K. Marx wrote: "In the function of money as a means of circulation ... the material of money becomes indifferent, everything depends on their quantity" [\[6\]](#) .

Their form does not determine the legal and economic essence of money. The form is only an external expression of money as an official payment for obligations. However, the form determines their legal regime.

The Concept of money underlies such civil law categories as "price", "payment", "interest", "compensation for losses", and many others, and is also used to

distinguish between certain types of civil law transactions, such as -sales "and" exchange" [7] .

In private legal regulation, the form of money determines the mode of protection of the rights of a bona fide acquirer, the possibility of replacement in the event of their loss (damage, death, etc.), the mode of fulfillment of monetary obligations.

Thus, from the point of view of private legal relations, money can be studied as legal tender and as an object (object) of a monetary obligation. Monetary liabilities expressed in a certain amount of monetary units:

1. Monetary units in which the amount of the obligation is calculated - the so-called currency of the debt,
2. Banknotes are a means of repayment of a monetary obligation - the so-called payment currency [8] .

The digital ruble as money

The initial prerequisites for the future private legal regulation of the digital ruble are laid down in the Concept of the digital ruble prepared by the Central Bank of the Russian Federation.

According to the Concept of the Digital Ruble, prepared by the Central Bank of the Russian Federation, the digital ruble is a new third form of money - digital, along with cash, non-cash.

Therefore, we believe that with this approach, the digital ruble is not a special kind of digital right, but a form of money movement from an economic point of view, and a legal point of view, a digital object - therefore, in the Civil Code it should be fixed as a currency (digital currency).

The digital ruble is money issued by the Central Bank of the Russian Federation. The peculiarity of this form lies in a new unique form of their emission and circulation.

Cash - there are things, non-cash funds - the rights of claim against the credit institution in which the account is opened[9] . This also determines the differences in their legal regime. The Constitutional Court of the Russian Federation came to this conclusion in the Resolution of December 10, 2014 N 31-P.

In educational literature, money is also considered things with generic, divisible and replaceable properties, since a certain amount is expressed in them. [10] .

The digital ruble, like non-cash funds, is an account entry.

Compared to cash, the digital ruble can be used for remote payment. In comparison with non-cash, it will be a more secure and secure payment method.

Like cash, its owner will have direct access to digital money, unlike non-cash money, which is accessed through an intermediary - a bank.

Digital money is a right of claim against the Bank of Russia, a similar but not identical mechanism of rights of claim is fixed for correspondent accounts of banks with the Central Bank of the Russian Federation.

Thus, the rights to the digital ruble are similar to the rights to cash, which are things, and non-cash money, which are the rights of claim but are not identical to either the first or the second.

We believe it is necessary to develop new protection methods, taking into account the peculiarities of the functioning of the digital platform. Or a combination of digital and non-digital security methods. Since money in itself is not a new object of rights, and a digital ruble is a form of money as an official means of payment, the amount of damage can be set in rubles and compensated in rubles (regardless of the form of their issue). The digital code assigned to the digital ruble will allow it to be identified in the system in the event of its theft.

The digital ruble is a high-tech innovative smart money that allows using the functionality of a smart contract in their circulation. According to the Concept of the digital ruble, the digital ruble is a token with a unique code. Therefore, the tokenization of the ruble will also lead to the loss of the confidentiality of settlements, which market participants may negatively perceive.

It is necessary to consider the issue of the relationship between the digital ruble model and the current regulations governing the circulation of digital currencies.

In the Federal Law "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russian Federation" dated July 31, 2020 N 259-FZ (hereinafter referred to as the Law on CFA), a narrow understanding of digital currency was fixed [\[11\]](#) . The law on digital currency recognizes a set of electronic data (digital code or designation) contained in an information system, which is offered and (or) can be accepted as a means of payment that is not a monetary unit of the Russian Federation, a monetary unit of a foreign state and (or) an international monetary or unit of account, and (or) as an investment and in respect of which there is no person obliged to each owner of such electronic data, except the operator and

(or nodes) of the information system, which are only obliged to ensure compliance with the procedure for issuing these electronic data, and implementation of actions in their relation to making (change) entries in such an information system according to its rules (Article 1).

Thus, according to this law, digital currency is not an official monetary unit but can be used as a means of payment, while Russian legal entities and individuals are prohibited from accepting it as a means of payment (as a counter-provision) (part 5 of article 14 of the Law about CFA).

At the same time, according to the established practice of legal regulation, it is precisely the official banknotes issued by authorized bodies and organizations that are in circulation and are legal tender [\[12\]](#) .

This Concept should be revised in the event of the development of legislation in line with the Concept of the digital ruble (if the digital ruble is recognized as the monetary unit of the Russian Federation, it is necessary to update the Concept of "digital currency" in the law on the digital currency)

Proposed changes in private legal regulation in connection with the introduction of the digital ruble

Since the digital ruble is different in its properties from cash and, in particular, non-cash funds, which are the rights of claim against the bank, and the digital ruble is supposed to be stored in the digital wallet directly by the Central Bank of the Russian Federation, bypassing the intermediary of the bank, first of all, changes are required in Art. 128 of the Civil Code of the Russian Federation in terms of securing the digital ruble as a digital object.

However, one should not forget that the digital ruble is primarily money as an official means of payment issued by the Central Bank of the Russian Federation.

In Art. 140 of the Civil Code of the Russian Federation will require amendments to the part of the addition to para. 2 p. 1 by calculations in digital form. In addition, changes will be required in the provisions of the Civil Code of the Russian Federation on settlements.

It should be recalled the draft Federal Law No. 424632-7 "On Amendments to Parts One, Two and Four of the Civil Code of the Russian Federation", it was envisaged to introduce the Concept of digital money (141.2 Civil Code), (however, such an idea was not supported by the legislator), which in the sense of money of the current legislation are not, since although they are recognized as legal tender, they are not

required to be accepted and credited. The prototype of digital money, in this case, can be considered a cryptocurrency with signs of decentralization, anonymity, and cross-border[13]. However, they retained only some of its properties[14] . By the draft law, digital money may be recognized as a set of electronic data (digital code or designation) that does not certify the right to any object of civil rights, created in an information system that meets the characteristics of a decentralized information system established by law, and used by users of this system to make payments. At the same time, based on the literal interpretation of the draft law, digital money is not required to be accepted when making all types of payments for crediting to accounts, deposits, and transferring throughout the Russian Federation territory. However, in cases and under the conditions established by law, physical and legal entities can use it as a means of payment. In this vein, the Concept of digital money is similar to the Concept of digital currency enshrined in the Law on DFA, but in a milder form. Since, firstly, digital money was supposed to be a legal tender that was not required to be accepted, the law on CFA contains a direct prohibition on the receipt of digital currencies as a counter-provision of digital currencies by Russian legal entities and individuals.

In contrast to the considered draft law, the model of the digital ruble proposed by the Central Bank of the Russian Federation provides for the obligation to accept and enroll as legal tender.

In addition, there are questions regarding the relationship between the models of the digital ruble and related institutions of "electronic money" and many other phenomena that make up the Concept of "national payment system". For example, when model A (Art. 27) is assessed in terms of its negative aspects (because of which the authors refuse it), it is indicated that it "does not have additional advantages ... in comparison with existing payment systems." [15] .

Conclusions:

The initial prerequisites for the future private law regulation of the digital ruble are laid down in the Concept of the digital ruble prepared by the Central Bank of the Russian Federation. According to this document, the digital ruble and cash and non-cash money will act as a new digital form of fiat money.

Financial obligations associated with the issue of the digital ruble will have some specific features due to its legal nature. Being an obligation of the Bank of Russia, the digital ruble will represent an entry on the account and the right to claim against the issuer. The key difference between the digital ruble and cash, which are essential things, and non-cash funds, which are the rights of claim against the credit institution

in which the account is opened. The emission of the digital ruble will be provided by a hybrid infrastructure consisting of both the components of a centralized system and distributed ledgers, which will allow using the functionality of a smart contract in making settlements in the form of digital currency. Since a unique digital code will identify digital rubles, their emission and use in settlements will allow an active fight against fraud.

The introduction of the new model of the digital ruble will first of all lead to the elimination of the intermediation of banks in the implementation of transactions, which in general can lead to the transformation of the Russian banking system from a two-tier to a single-tier, due to the flow of finance from banks to digital wallets. In turn, this may affect the liquidity of banks.

It will be necessary to amend the civil legislation, first of all, in terms of clarifying the legal regime of money as object of rights, supplementing the rules on settlements.

In the case of the development of legislation in line with the Concept of the digital ruble, it is necessary, firstly, to bring the concepts and terms used in the Federal Law of July 31, 2020 N 259-FZ under the provisions of financial legislation governing the process of monetary emission.

The introduction of the digital ruble into civil circulation will entail changes in private law regulation. Since the digital ruble is inherently different from cash and non-cash money, we believe it is advisable to consider amending Art. 128 of the Civil Code of the Russian Federation in terms of securing the digital ruble as a digital object of civil rights.

Thirdly, the issue of the digital ruble will entail amending the provisions of the Civil Code of the Russian Federation on settlements, and will also require research into issues regarding the ratio of the digital ruble with such adjacent elements of the national payment system, formed based on information technologies, such as electronic money, an electronic wallet, an operator of electronic funds, paying agent.

Fourth, the peculiarities of the digital ruble emission require the creation of new mechanisms to protect the rights of participants in civil turnover, taking into account the peculiarities of the functioning of the digital platform and based on a combination of digital and non-digital methods of protection. Since money itself is not a new object of rights, and a digital ruble is a form of existence of money as an official means of payment, the amount of damage can be set in rubles and compensated in rubles (regardless of the form of their issue), and the digital code assigned to the digital ruble, will allow you to identify it in the system in case of theft.

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