



FINTECH-CIVIL LEGAL RELATIONS AS AN OBJECT

Khazratkulov Odilbek Tursunovich

PhD in Law, associate Professor of the Private International Law
Department, Tashkent State University of Law.

Gmail: odilbekh@list.ru

Phone number: +998971327600

Article history:	Abstract:
<p>Received: October 6th 2022 Accepted: November 6th 2022 Published: December 12th 2022</p>	<p>As a result of the globalization of the world community, the rights and obligations of economic entities are guaranteed to be regulated by international treaties, conventions, as well as conflict of law rules that exist in national legislation. Today, the provision of modern technological tools and the rapid development of program activities are on the agenda for research to address the issue related to the rights of participants in these relations. In turn, it is important to take into account the laws and regulations of developed countries that have advanced in the field of digital financial services aimed at regulating this area. This article discusses the issues of alienation of digital financial assets as objects of civil legal relations, going beyond the generally accepted traditional approaches.</p>
<p>Keywords: Integration, technological revolution, financial technologies, cryptocurrency, fintech, crypto assets, material goods, personal money, bitcoin, tokens, profitable tokens and investment tokens</p>	

Today, in the course of economic development, new national technologies, services, and goods are being developed that will change the entire structure in the process of increasingly comprehensive integration of the production sector, the study of the practice of the digital economy in the world and the effective use of its opportunities are gaining relevance.

Today, new innovative activity is based not only on technological aspects, but also has a positive effect on the economic potential of the country, the policy of regulating social relations and its further improvement. Studying this activity with a scientific analysis, in turn, will stimulate the development of the country's economy at a high level and help to ensure a competitive environment in the world market with the help of its main industries.

In the world, in a short period of time, the scope, size and breadth of the digital economy has achieved such rapid growth rates that, as a result, the general sectors and markets of the economy remain under its influence. The process of the financial sector itself, not being left out of the technological revolution, is also a natural process of integrating more and more new tools to improve the market of financial services. Acquired technological innovations have entered our lives at the "speed of sound" and this process, in turn, requires the creation of a new system of legal regulation of the global financial system and puts on the agenda the task of developing measures to improve the legal framework that regulates it.

For this reason, for a short time in the global financial services sector financial technology - such an

institution as financial technologies was formed and it continues to develop at a rapid pace. Financial organizations are achieving new and unique results by using this technology and innovation in providing financial services, intermediation and creating a competitive environment.

Fintech is a set of technologically supported financial innovations aimed at helping to create new types of products and, through this, advanced business projects, their implementation processes, financial service delivery procedures, which have the potential to seriously affect the traditional approaches of financial markets and institutions.

Created and offered in the Fintech system one of its products is digital financial assets, which are increasingly being used in several countries around the world. One of the most common types of digital financial assets is cryptocurrency based on blockchain technology.

Cryptocurrency is currently being studied as a research topic by many scholars in the fields of economics, law, and finance, and one or another aspect of this topic is being studied as an object of research.

The economic aspects of cryptocurrency, or the technical features that make it possible, have been researched for decades. Unfortunately, there are not enough analyzes revealing its concept, legal nature and features, regulatory aspects, recognition as an object in civil-legal relations.

It should be recognized that the presence of economic and legal concepts of crypto-currency in this field, even if it is small, can be evaluated as a positive



result. Now created as a product of the human mind "Fintech" of a cryptocurrency-related platform existence, rights and obligations arising from civil relations expected to arise in the future, determining the status of subjects, resolving disputes that may arise, and developing a legal structure related to the issue of responsibility is one of the urgent tasks facing researchers and legislators.

In this regard, research is being conducted in the field of creation of legal norms, but there are still no concepts that unanimously create the legal basis of these relations. In our opinion, this situation should be taken for granted. Because any innovation in its time faces various contradictions, new conceptual views appear, therefore a set of norms regulating the provision of digital financial services is formed, tested in practical terms and implemented as a legal norm.

Therefore, in this regard, when determining the center of discussions on the legal nature of digital financial assets, special attention should be paid to the system of civil-legal principles aimed at regulating these assets. Among them, when solving issues of civil-legal regulation of crypto-currency, it will be connected with the need to include it among the existing objects of civil rights or to solve the issue of forming a new type of object. Because the natural question of whether it is possible to use crypto-currency in the conclusion and execution of civil-legal contracts? For this reason, it is necessary to review the traditional conceptual foundations of the objects of civil law.

Article 81 of the Civil Code of the Republic of Uzbekistan defines the types of objects of civil rights, according to which objects of civil rights include objects, including money and securities, other objects, property, including property rights, works and services, inventions, industrial designs, science, literature, works of art and other results of intellectual activity, as well as personal non-property rights and other tangible and intangible assets are included.

In this article of the legislative code, money, i.e. currency, has been defined as an object of civil legal relations. In this case, according to the form of funds, cash or non-cash, having a certain value according to its consumption, according to its purpose, it has an economic, social and political character, and the legal status of money is characterized by its socio-economic importance and the tasks it performs.

In the current legal norms, money or currency is accepted as an object of civil legal relations. For this reason, analyzes and conceptual ideas have been put forward by research scientists in relation to the objects of civil legal relations.

There is a golden rule that has not lost its importance in civil law. That is, what the actions of the subjects of civil law are directed towards is considered to be the object of civil-legal relations.

by Academician X-A. Rahmonkulov nThe nature of existing rights to cash and non-cash money is analyzed, according to him came to the conclusion that the right in relation to cash is a material right, and the right in relation to non-cash money is the right of obligation [1].

According to O. S. Ioffe, objects, as well as personal intangible benefits, do not have the ability to exert such an influence, therefore, neither objects nor personal intangible benefits are considered objects of law" [2].

According to D. I. Mayer, any property is valued in money, any obligation is directly monetary, that is, despite the fact that its subject is not related to the payment of money, its other objects are valued in money, so any obligation can be considered a monetary obligation [3], it can be observed that the conclusion is reached.

Property rights as an object of civil law have their own characteristics, they always create a material interest for their owner, mainly arise on the basis of civil legal relations, represent a set of property powers such as possession, use and disposal, and a set of legal actions that make up their content. , it is important because of its features such as the fact that it often has an immaterial color and exists outside of its material base [4].

Arguing that we do not have a future for cryptocurrency today, and that its future is abstract, in turn, does not help to solve the problem related to it. On the contrary, we need to clarify what the legal aspects of crypto-currency are and to understand the need to create objective economic and legal bases that require the creation of optimal legal conditions for its legal development. Because it exists today, individuals are carrying out financial transactions within the scope that does not limit it. For this reason "Cryptocurrencies created with the help of Fintech" should be recognized as an object of civil-legal relations and the question of which type should be included in it should be resolved.

In this regard, we consider that it is necessary to base our opinions on the views of academician X-A. Rahmonkulov on the creation of objects of civil legal relations. According to him, "It is not always correct to think that all objects of civil-legal relations appear in a natural state in advance under any circumstances, and civil-legal relations are created only later because of them." In real conditions, such a sequence may not occur, but it may be the other way around" [5].

Therefore, it can be understood that the parties have rights and obligations when carrying out financial practice with cryptocurrencies, there are traditional signs of dealing with currency, and in such a case, civil-legal relations have arisen before its object, and such relations cannot be considered without objects.

Currently, the legislator did not want to leave



this phenomenon out of the scope of legal regulation, so he has started actions to develop active measures to strengthen the legal status of cryptocurrency.

In accordance with the "Concept of Improving the Civil Legislation of the Republic of Uzbekistan" approved by the Decree of the President of the Republic of Uzbekistan No. F-5464 on April 5, 2019, the efforts to develop the national civil legislation, the new revision of the Civil Code, have been started rapidly.

As a result of the conducted researches and researches, for the first time as a legislative project, the new edition of the Civil Code of the Republic of Uzbekistan, entitled "Material benefits" Crypto assets" concept was introduced and this draft law was introduced it was assumed that it would be considered an object of civil rights and that it would be in free circulation, unless otherwise established by law.

Through this proposed law Currently, in connection with the introduction of blockchain and crypto-currency into economic transactions, the project has taken a step to the initial stage of determining its legal nature by introducing general rules for digital money.

It should be emphasized that the draft law presented by them did not answer the questions about the type of objects to which the civil law of digital financial assets belongs and did not clarify it.

The norms in the proposed bill are self-explanatory together with banks or financial companies, requires amendments to be made to national legislation to determine the status of digital technologies used. As part of the implementation of the digital economy program in the Republic of Uzbekistan, the legislator should develop a definition of virtual currencies and a model of its legal regulation. This ensures that the rights and obligations of the subjects of digital economy relations are guaranteed within the framework of the law, and a regulatory mechanism is considered to have been developed.

Currently, foreign countries are actively preparing and implementing a draft law on digital financial assets.

In particular, the Russian Federation submitted the draft law "On Digital Financial Assets" to the public for consideration. Article 2 of the law defines a digital financial asset, according to which it is classified as "property in electronic form created using encryption (cryptographic) means." It is envisaged to determine the right to own this property by entering digital entries in the register of digital operations [6].

Today, in the proposed new draft of the Civil Code of the Republic of Uzbekistan, "crypto-assets" will not be enough to solve the issue that is waiting to be solved in front of us with proposals to define new types of legal objects in the code.

In our opinion, the inclusion of crypto-assets as

an object in the main code regulating civil relations is a positive situation, but it is pointless to take such actions until its sufficient legal description and legal aspects are revealed through separate legal norms.

There is currently no universally accepted definition by researchers for each of the digital financial assets. Also, the single conceptual views that form its basis have not been developed, and scientifically based approaches cannot be considered sufficient. In this regard, before analyzing the existing approaches to the legal nature of cryptocurrency, the main task to be solved is to define the definition of cryptocurrency, to determine its regulatory bases and tasks.

Today, virtual currency is a digital representation of value that is internationally recognized, and by its very nature, a currency that can be digitally sold, a medium of exchange, a unit of value, or a store of value exists in virtual practice, but has not been recognized as legal tender in any jurisdiction. Given this definition, taking into account the numerical characteristics of the object and its usual features as a currency, it does not recognize it as a means of payment due to the fact that it is not approved by the state. According to the definition given to cryptocurrency by the Financial Supervision Special Commission (FATF) of the European Union, it is recognized as "decentralized convertible virtual currency protected by cryptography, based on a mathematical algorithm"[7].

Researcher And O.S. Belomytseva "cryptocurrency - digital currencies created on the basis of blockchain technology, not issued by state central banks, not attached to official currencies, voluntarily accepted, transferred and stored electronically as means of payment by market participants"[8].

From a practical point of view, cryptocurrency is inextricably linked with blockchain technology. Although it is organized according to a certain developed program and rules, but by its nature it consists of a structured blockchain without a centralized system, which contains information about all previous transactions with respect to cryptocurrency.

Therefore, many researchers in his view the fact that cryptocurrencies are issued by state central banks and are not attached to official currencies seems to be an approach that does not fully reflect its legal nature.

Today, one of the central issues of the approaches of scientists who conducted research on the legal nature of cryptocurrency was to determine the legal nature of cryptocurrency.

Through the conducted research, a proposal was developed to determine the essence of cryptocurrency, according to which "the practice of digital currency is a digital (virtual) currency based on creation and management through cryptographic methods (mathematical algorithms), which is completely decentralized, that is, which guarantees the



correctness of the system's activity in the network and the financial transactions of the system's participants. is a financial practice that cannot be influenced by internal and external parties" [9].

In addition, there are a number of features that reflect the nature of cryptocurrency, according to which it is not necessary to use the services of financial institutions where the sender and receiver have open accounts in the course of transactions using cryptocurrencies. Therefore, intermediaries who receive a fee for their services are not involved in this relationship and traditional banking operations are not performed.

Another problematic aspect of this practice is the fact that the transactions carried out with it are decentralized, that is, they have a cross-border classification that is not under the control of any countries or federations (states).

In our opinion, there are no circumstances that prevent cryptocurrency from being included in existing objects of national civil law. Due to the diversity of its nature, scope, and functions, cryptocurrency should be used only with the legal establishment of regulatory mechanisms.

Currently, cryptocurrency performs two of the most important functions in economic relations, more than its own characteristics. In the legal regulation of the issuance of the main tokens (digital assets), it is appropriate to distinguish their types according to their characteristics, develop their definitions and systematically formulate rules. Because currently there is no generally accepted definition and classification of tokens. In practice, tokens are used as digital financial assets known as cryptocurrencies, utility tokens, and investment tokens.

By its nature, cryptocurrency is recognized as a de facto means of payment between business entities for the provision of services, performance of work, as well as the purchase and sale of goods. However, it is currently not possible in our opinion to legally classify cryptocurrency as a full means of payment based on its characteristics and characteristics.

In particular, according to the current legal norms, the currency of the Republic of Uzbekistan is the soum, and money is issued only by the Central Bank of the Republic of Uzbekistan. It is not allowed to enter and withdraw other funds on the territory of the country in accordance with the procedure established by law.

According to Article 94 of the Civil Code of the Republic of Uzbekistan, The currency of the Republic of Uzbekistan is the soum. Soum is a legal tender that must be accepted at face value.

The status of legal payment allows us to pay any monetary obligation within the territory of the Republic on the basis of law without having to express the will of the creditor. All other types of payments

(contrary terms) do not have the status of legal tender.

At the same time, legal tender is used to fulfill state-legal obligations in the monetary classification, for example, to pay taxes.

Money is a social phenomenon like other economic categories. Their existence and their different value form the social and economic structure of the society in which they are used. Another approach to solving this problem is to analyze the role of money in society and how it can be used.

For example, foreign currency or national currency is defined as a means of exchange in international trade rules, international agreements related to currency, relevant state laws and legal documents. Therefore, it is recognized that currency is accepted as a means of payment in society, not just paper.

As a result of the conducted research, it can be concluded that "for all goods, the currency was chosen, which was approved by entrepreneurs, began to play the role of a commodity-circulation intermediary, and was accepted by everyone as its own common equivalent. Through this, commodity-money and commodity-money transactions were created" [10].

The result of the analyzes carried out in the field of monetary credit and payment regulation shows that it should not be forgotten that there are cases of different views on the relevant problems of such new liberal approaches to currency.

The idea of creating a currency similar to the current cryptocurrency dates back to the last century, including the 1975 book "Private Money" by the research scientist Friedrich von Haeck, who proposed a "fundamental new way to achieve monetary stability - that is, private currencies based on equal competition with the existing state currency. proposed the system[11].

Over the years, the proposed ideas have come to fruition, and a "cryptocurrency" has emerged that can compete with the national currency recognized by humanity and having a certain value. By its very nature, cryptocurrency has been viewed as an unauthorized instrument that does not require trust in the entities that claim it as a currency, nor in the monetary system of nations.

According to the analysis, cryptocurrencies do not meet the requirements of a conventional currency in practice and cannot perform the functions that a currency does. From a legal point of view, it is not possible to classify crypto-currency as an object as "domestic" or "foreign". Simply put, there is no way to determine the "nation" of this currency, and this situation is not important in monetary practice. On the other hand, no legal status was given in the implementation of this financial practice.

For example, the reports of the European



Banking Authority generally state that crypto-assets are outside the scope of the regulation of financial services in the state, which leads to different approaches to the legal order of transactions with such assets in member states. Such differences may prevent the operation of a single market in which each participant has equal rights. According to the rules of the European Central Bank, it is not possible to include cryptocurrencies in the settlement system with the existing regulatory infrastructure[12].

Cryptoassets are not classified as securities in any legal document, and the existing system of capital requirements for banks and investment companies is not adapted for cryptoassets. However, due to the small distribution of related transactions, the risk to financial stability is still considered insignificant.

Each newly created institution also has its own negative aspects, which include:

- exactly "FintechIncomplete development of such conceptual approaches in the field, in turn, leads to the weakening of national sovereignty;

- the existence of a risk of negative impact on their financial system;

- enables individuals to use crypto-currencies for the purpose of legalization of criminally acquired financial assets;

- as a result of constant fluctuations in the value of crypto-assets, it creates a hostile attitude towards the funds of citizens;

- this practice creates the risk of creation of financial pyramids by organized criminal groups;

- lead to the failure of existing stock exchange practices of countries and increase the risk of financial stability;

- creates problems with the taxation of cryptoassets within the framework of the current law.

For this reason, it is possible to observe in social networks that certain restrictions are currently being applied by states in the implementation of this financial practice.

From the point of view of the existing legislation, it can be concluded that the legal relations related to cryptocurrency can be regulated by the provisions of the exchange agreement, if there is no conflict with the rules of regulation of the exchange agreement or the essence of legal relations. Currently, in practice, there are no legal restrictions on the exchange of cryptocurrency for other goods, and no regulations have been developed to allow it.

of the Civil Code of the Republic of UzbekistanAccording to Article 82, Part 1, objects of civil rights may be freely transferred to other persons or transferred from one person to another in the order of universal legal succession (inheritance, reorganization of a legal entity) or in another way, if they are not removed from circulation or their circulation is not

restricted.

Objects of civil rights can be alienated from their owners, i.e., given or transferred to other persons in various ways and forms, if they have not been removed from circulation or their circulation has not been restricted.

The types of objects that are not allowed to be in circulation in accordance with Part 2 of this Article (objects excluded from circulation) must be directly specified in the law. Objects may not be removed from circulation by other legal documents other than the law.

It can be concluded from the content of this article that the currency recognized as an object of civil-legal relations or equivalent means of payment must be in circulation and must meet the requirement of not being excluded from circulation.

In conclusion, it should be noted that "Fintech" there is a need to review the laws and regulations in the field based on the requirements of the present time, and in our opinion, this will certainly prevent violations of the law in all areas related to financial resources and provide modern services to citizens.

REFERENCES

1. Раҳмонқулов Х-А. Фуқаролик ҳуқуқининг объектлари / Ўқув қўлланма. –Т.: ТДЮИ, 2009. –72 б.
2. Иоффе О.С. Гражданское правоотношение // Гражданское право: Избр. Труды (Сер. «Классика российской цивилистики») – М.: Статус, 2000. –С.588.
3. Мейер Д.И. Русское гражданское право. М.: Статут, 1997. - С.129.
4. Аманов З.А. Мулкий ҳуқуқлар фуқаролик ҳуқуқининг объекти сифатида: юрид. фанл. номз. дисс....автореф. –Т.:2010, –7-б.
5. Раҳмонқулов Х-А. Фуқаролик ҳуқуқининг объектлари / Ўқув қўлланма. –Т.: ТДЮИ, 2009. –13 б.
6. Цинделиани И.А. Правовая природа цифровых финансовых активов: частноправовой аспект //Ж.: Финансовое право, 2020. №7. –С.16.
7. FATF Report Virtual Currencies Key Definitions and Potential AML/CFT Risks, June 2014. P. 4. См.: <https://www.fatf-gafi.org/media/fatf/documents/reports/Virtual-currency-key-definitions-and-potential-aml-cft-risks.pdf> (дата обращения: 31.03.2020).
8. Беломытцева О.С. О понятии криптовалюты. Биткоин в рамках мнений финансовых регуляторов и контексте частных и электронных денег // Проблемы учета и финансов. 2014. № 2(14). –С. 26.
9. Цинделиани И.А. Крипто валюта как объект гражданско-правового и финансово-



правового регулирования // Ж.: Финансовое право, 2018. -№7. –С.22.

10. Кучеров И.И. Законные платежные средства /Монография. –М.: ИЗИСП, 2016. -389. –С.21-22.
11. Fredrick Von Haye. Denationalisation of Money: An Analysis of the Theory and Practice of Concurrent Currencies / F.A. von Hayek. London: Institute of Economic Affairs, 1976. Рус. пер.: 12. Хайек Ф.А. Частные деньги. – М.: Ин-т национальной модели экономики, 1996. –С.5.
12. European Banking Authority Report, 9 January 2019. Report with advice for the European Commission on cryptoassets. –P.15, 17.
13. Gulyamov Said Saidakhrarovich, Khazratkulov Odilbek Tursunovich, & Eshbayev Gayrat Bolibek ugli. (2022). DIGITAL FUTURE & CYBER SECURITY NECESSITY. World Bulletin of Management and Law, 10, 31-45. Retrieved from <https://scholarexpress.net/index.php/wbml/article/view/948>
14. Gulyamov Said Saidakhrarovich, Khazratkulov Odilbek Tursunovich, & Eshbayev Gayrat Bolibek ugli. (2022). DIGITAL FUTURE & CYBER SECURITY NECESSITY. World Bulletin of Management and Law, 10, 31-45. Retrieved from <https://scholarexpress.net/index.php/wbml/article/view/948>