

**ISSUES OF LEGAL ANALYSIS OF A CRIME IN THE FORM OF
MANUFACTURING, SELLING COUNTERFEIT MONEY, EXCISE
STAMPS OR SECURITIES**

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Abstract The production and sale of counterfeit bank notes, metal coins, securities of the Republic of Uzbekistan or foreign currency or securities in foreign currency was recognized as a serious crime at all stages of the development of Uzbekistan. However, this crime becomes especially dangerous in the conditions of the formation of a market economy, the existence of "transparent" borders with neighboring countries, and the intensification of business contacts with developed countries.

Keywords: foundations of the economy, the national currency is the sum, certain size, quality, material, color, an excise stamp, criminal law.

Forgery for the purpose of sale or sale of counterfeit money and securities undermines the monetary and credit systems of the state, contributes to the development of inflationary processes and thereby damages the economy of the entire republic. Proceeding from this, the generic object of the named crime is the foundations of the economy of the Republic of Uzbekistan.

The subject of the crime in question are bank notes (banknotes) and metal coins of any denomination in circulation in the Republic of Uzbekistan, issued by the Central Bank of the Republic of Uzbekistan, excise stamps, government and other securities in the currency of the Republic of Uzbekistan, as well as foreign currency or securities in foreign currency circulating in a particular country.

In the Republic of Uzbekistan, the national currency is the sum, which is a banknote that has a form strictly defined by law. Banknotes are printed, and metal ones are minted of a certain size, quality, material, color and shape of the front and back, and coins are also of a certain weight. Banknotes and, along with a metal coin, are cash money of the Republic of Uzbekistan, represent an unconditional obligation of the Central Bank of the Republic of Uzbekistan and are secured by all its assets. The denomination of banknotes and metal coins is established by the state.

Paper money occupy the number of the series indicated by the letters individually assigned to each banknote. However, not all details of the banknote are equivalent in their value. Since the banknote certifies or, better, acts on behalf of the state as the equivalent of a commodity that replaces gold or silver¹, the main details of the banknote are the sign of its state affiliation, the name and designation on the front and back, in words and numbers of face value (in metal coins, respectively - the coat of arms, the name of the country and the designation of the nominal value). The remaining details of the banknote are additional, facilitating the distinction of one banknote from another and, in addition, serving as a means of protecting them from counterfeiting.

An excise stamp is a document with the necessary details, indicating the payment by legal entities or individuals of tax on excisable mass consumption products produced in the Republic of Uzbekistan or imported into the customs territory of the Republic of Uzbekistan.

A security is a document certifying, in compliance with the established form and mandatory details, property rights, the exercise or transfer of which is possible only upon its presentation. In other words, a security is monetary documents certifying property rights or loan relations between the person who issued them and their owner, providing for the payment of income in the form of dividends or interest and the possibility of transferring the rights arising from these documents to other

¹ See: Artykov A. Dictionary of economic and legal terms. - T., 1997. - P.10

persons. Securities include government bonds, bills of exchange, checks, deposit and savings certificates and other documents that are classified as securities by the law on securities or in the manner prescribed by it.

Money in the form of paper notes and metal coins that are in circulation and are legal tender in a foreign state or group of states, as well as banknotes withdrawn or withdrawn from circulation, but subject to exchange, can act as a foreign currency.

Securities in foreign currency include payment documents (checks, bills of exchange, letters of credit, etc.), stock values (stocks, bonds, etc.) and other debt obligations denominated in foreign currency.

The listed items can be considered as a constructive sign of a *corpus delicti* crime under Article 176 of the Criminal Code, only on condition that at the time of their forgery or sale they are in circulation on the territory of the Republic of Uzbekistan or are used in other states. In this regard, counterfeiting for the purpose of selling banknotes that are not currently in circulation (for example, counterfeit coins minted by Russian tsars, Soviet rubles, etc., which have only collectible value) cannot be qualified under Article 176 of the Criminal Code, since their production or sale cannot in any way damage the functioning monetary and credit system of the state. Therefore, such actions, in the presence of all other mandatory features, should be qualified as fraud under Article 168 of the Criminal Code.

The actions of a person who is engaged in the manufacture, forgery or sale of money-clothing lottery tickets, nominal savings books, sales checks and similar papers do not form the *corpus delicti* of the crime under consideration. When selling, for example, a lottery ticket, state bodies or public organizations do not assume certain obligations, i.e. do not guarantee the buyer a mandatory refund of the paid ticket price. Therefore, a lottery ticket that did not win loses all value. A lottery ticket is not a security, but a document that gives the right to participate in the drawing of certain material values. Forgery and sale of such tickets in the presence of other

necessary signs should also be qualified as fraud under Article 168 of the Criminal Code².

As mentioned above, the law also includes excise stamps among the objects of the analyzed corpus delicti³. It seems that the inclusion of excise stamps in the disposition of Article 176 of the Criminal Code and their consideration as an object is erroneous. Excise stamps, being special forms of strict reporting, do not belong to securities and do not act as an equivalent of money or goods, since they do not have a face value, which is typical for banknotes and securities. Because of this, they do not take part in monetary circulation. Their forgery for the purpose of sale or sale cannot violate social relations that ensure the normal functioning of the monetary and credit system of the state. Based on this, it seems logical to exclude the excise stamp from the disposition of Article 176 of the Criminal Code as the subject of the crime in question.

It is generally accepted that official documents are written acts certifying certain facts, granting rights or exempting from obligations⁴. The excise stamp is also an official document. This conclusion comes from the fact that excise stamps give their holders the right to carry out certain legally significant actions in the sphere of trade. Thus, as an official document, an excise stamp is fully covered by the concepts of a document and a form, which are referred to in Article 228 of the Criminal Code, which provides for liability for the manufacture, forgery of documents, stamps, seals, forms, their sale or use. Forgery for the purpose of sale or sale of counterfeit excise stamps encroaches on public relations in the field of the procedure established by law for the preparation and use of official documents. Consequently, such actions of the perpetrator, in the presence of other relevant signs,

² See: Criminal law. Special part: Textbook / R. Kabulov, A. Otazhanov and others; Rep. Editor Sh.T.Ikramov. - T.: Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan. 2016. - P.351.

³ Note that the excise stamp as the subject of a crime under Art. 176 of the Criminal Code, introduced by the Law of the Republic of Uzbekistan "On amendments and additions to certain legislative acts of the Republic of Uzbekistan" dated August 29, 1998. // See: Gazette of the Oliy Majlis of the Republic of Uzbekistan. - 1998. - No. 9. – p. 181

⁴ For more details, see: Criminal law. Special part: Textbook / R. Kabulov, A. Otazhanov and others; Rep. Editor Sh.T.Ikramov. - T.: Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan. 2016. - P.625.

form the corpus delicti under Article 228 of the Criminal Code, and are subject to qualification under this article of the criminal law. The correctness of such a qualification of the crime is confirmed by the judicial practice of some CIS countries.

So, due to the fact that the excise stamp is not the equivalent of banknotes and does not represent a security, illegal actions associated with it are qualified under the current criminal law, for example, the Russian Federation in accordance with Art. 324 of the Criminal Code of the Russian Federation, which provides for liability for the illegal acquisition or sale of official documents granting or releasing from obligations, as well as state awards of the Russian Federation, the RSFSR, the USSR⁵.

The objective side of the corpus delicti of the considered socially dangerous act can be expressed in the manufacture for the purpose of sale or in the direct sale of the objects of crime listed in part 1 of article 176 of the Criminal Code.

Under the manufacture is understood the complete or partial forgery of the objects of the crime. With a complete counterfeit, counterfeit money or securities are created without the use of real ones, from scratch.

Sometimes banknotes (denominations) are made by preparing a vertical, oblique or transverse cut of a genuine banknote in order to create an additional copy. Adhesive tape or a strip of paper is inserted into the incisions.

In any case, both in case of full or partial counterfeiting, the manufactured banknotes (banknotes, coins) or securities must have significant similarities in shape, size, color and other details with genuine banknotes or securities in circulation. Gross counterfeiting of banknotes and securities, excluding their participation in circulation, does not form signs of the corpus delicti under consideration.

The objective side of the considered corpus delicti is formed not only by the manufacture of counterfeit banknotes or securities, but also by their sale. Sale is

⁵ See: Criminal law of Russia. General and special parts: Textbook / Ed. Dr. jurid. Sciences, Professor V.K. Duyunova. – M.: RIOR, 2008. – p.630

understood as their use as a means of payment when paying for goods, services, bills, donation, lending, placement in a bank, presentation to a bank for exchange, sale of counterfeit currency on the market, exercise of any property rights certified by a security, and as well as their transfer to another person free of charge or for a fee, other possible actions related to the putting into circulation of these fakes. Sale can be carried out both by the manufacturer of counterfeit money or securities or his accomplices, and by other persons to whom counterfeit banknotes get in various ways.

However, it should be emphasized that the concepts of manufacture and sale do not cover cases of "storage" or "transportation" of counterfeit money or securities for the purpose of their sale. As a result, the perpetrators, when storing or transporting counterfeit money or securities for the purpose of selling, may go unpunished. Given these circumstances, some foreign states provide for criminal liability not only for the manufacture and sale of counterfeit money or securities, but also for their storage or transportation. For example, in accordance with Art. 186 of the Criminal Code of the Russian Federation, both the manufacture or sale of counterfeit money or securities, as well as their storage, as well as transportation.

The implementation of this innovation in the criminal legislation of the Republic of Uzbekistan will make it possible to more accurately determine the objective side of the *corpus delicti*, which will ensure the uniform application of Article 176 of the Criminal Code. At the same time, the storage of counterfeit money or securities means the commission of any actions related to the presence of these items in the possession of the guilty person (with oneself, if this is not related to transportation, in a room, in a cache, etc.), regardless of its duration.

Transportation is understood as any actions for the movement of counterfeit money or securities, regardless of the method of transportation and the place of storage of the transported counterfeit money or securities⁶.

⁶ See: Criminal law of Russia. Parts General and Special: Textbook / Ed. A.I. Raroga. – 10th edition, revised and supplementary. – M.: Prospekt, 2018. – P.578-580.

The subject of the crime in question is a natural and sane person who has reached the age of 16.

Individuals who may be subject to criminal liability for the manufacture or sale of counterfeit money or securities include both citizens of the Republic of Uzbekistan with legal capacity, as well as full or partial legal capacity, as well as foreign citizens, stateless persons, dual nationals (persons with dual citizenship).

The subjective side of the crime in question is characterized only by direct intent. The person is aware that for the purpose of selling counterfeit money or securities or sells them and wishes to do so. Mandatory sign of the subjective side of the crime is selling. This necessitates the establishment of the criminal's goal of selling fake during manufacture, storage or transportation. In the absence of such, the listed acts do not constitute a corpus delicti of this crime. For example, the purpose of demonstrating one's abilities in making counterfeit money or making it for a "collection" excludes criminal liability. A person who does not know that the banknotes or securities sold by him are counterfeit is not subject to criminal liability.

Summing up what has been said, it must be emphasized that the analysis of objective and subjective signs of the corpus delicti of the crime in question and the legislation of individual foreign countries leads to the introduction of appropriate changes in the current legislation of the Republic of Uzbekistan.

In this regard, we consider it appropriate to state the title of Article 176 of the Criminal Code in the following wording: “**Manufacture, sale of counterfeit money or securities**”, and the disposition of part 1 of the same article: “*Manufacture, storage or transportation for the purpose of sale or sale of counterfeit bank notes (banknotes), metal coins or securities, or foreign currency or foreign currency securities...*”. The implementation of the noted recommendation in lawmaking in the field of improving criminal legislation, in our opinion, will significantly increase the effectiveness of legal measures to combat such crimes.

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