

The Subject of The Crime of Illegally Acquiring or Transferring Currency Assets

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Abstract: This article analyzes the subject of the crime related to the illegal acquisition or transfer of currency assets. The differences between the subject and the object of the crime are highlighted. In crimes involving currency assets, the subject of the crime is discussed, and its types are illustrated with examples.

Keywords: Currency assets, crime, subject (of a crime), precious metal, semi-precious metal, precious stone, semi-precious stone.

Introduction: Precisely determining the object of a crime often significantly aids in identifying which specific direct object has been harmed, as well as in obtaining information regarding the quantitative indicators of the damage inflicted. Frequently, the object of a crime is interpreted in the same way as the crime's subject—namely, the social relations protected by criminal law—or errors and shortcomings occur in distinguishing between the two. However, in reality, the object of a crime refers to the material aspect that the offender's unlawful act is directed against.

For example, in Article 230¹ of the Criminal Code—"Falsification of Evidence"—the falsified evidence containing important information related to a specific criminal case is regarded as the object of the crime. Meanwhile, the subject of this crime can be considered the social relations connected to ensuring the interests of justice during the inquiry and preliminary investigation stages.

Nevertheless, it would be incorrect to confine the concept of a crime's object to such a narrow and limited definition. This is because, nowadays, the concept and scope of material things must be broadened. In particular, the role and prevalence of electronic data, which now frequently serve as specific objects in various crimes, have been rapidly increasing and becoming widespread.

Therefore, relying on advanced legal literature, it would be appropriate to define the object of a crime as

"phenomena or elements of the external (material) world that can be perceived, measured, calculated, and evaluated." [1, p. 266].

The Object of crime

The object of a crime is the item, thing, or object that is directly impacted by the offender during the commission of the crime. In some crimes, the object is considered a key element of the criminal composition, while in other specific crimes, it serves as an optional feature. This largely depends on whether the crime can or cannot be committed through the object in question.

For example, in the crime of illegally acquiring or transferring foreign currency valuables, which we are currently examining, the foreign currency valuables are considered the primary identifying feature of the crime's object.

In this context, it is essential to distinguish between the instrument of the crime and the object of the crime. As previously mentioned, foreign currency valuables are the object in currency-related crimes; however, in corruption-related crimes, they function as tools or instruments of the crime. In other words, while the object of a crime refers to items, things, or objects that are harmed as a result of the socially dangerous act, a crime instrument is a means or aid used to commit the crime. For instance, in corruption offenses such as bribery, foreign currency valuables serve as facilitators in the commission of the crime.

The concept of a crime's object refers to a real object

or thing that is the target of the criminal act. This may include a physical object, location, or property that is linked to the offender's actions or the consequences of the crime. The object of the crime plays a significant role in the criminal law system in determining the composition of the crime, its classification, and the corresponding punishment.

METHODOLOGY

The concept of a crime's object is important for court proceedings and the application of legislation. Identifying which object or objects were involved as the crime's object helps legal authorities classify and investigate the crime and make judgments based on evidence.

RESULTS

Article 1 of the Law of the Republic of Uzbekistan No. O'RQ-387 dated June 3, 2015, "On Amendments and Additions to the Law of the Republic of Uzbekistan 'On the Securities Market'" specifies that the legal act applies to the following types of securities: shares, bonds, treasury obligations, deposit certificates, derivatives of securities, and promissory notes [2].

Based on the above, the concept of foreign currency securities as the object of a crime includes the following:

- * Shares
- * Bonds
- * Treasury obligations
- * Deposit and savings certificates
- * Derivatives of securities
- * Promissory notes

A share is a type of equity security without a fixed maturity period, registered in the name of the owner, that confirms the shareholder's right to a portion of the joint-stock company's profit in the form of dividends, to participate in the management of the company, and to a portion of the assets remaining upon its liquidation.

According to the Law of the Russian Federation "On the Securities Market," a share is a security that confirms the shareholder's right to receive a portion of the income in a joint-stock company.

Additionally, the Law of the Republic of Uzbekistan "On Amendments and Additions to the Law of the Republic of Uzbekistan 'On Joint Stock Companies and Protection of Shareholders' Rights'" dated May 6, 2014, states that a share is a security issued by joint-stock companies. A shareholder is entitled to receive dividends from the company's profits based on their ownership stake. Article 16 of this law states: "The

authorized capital (charter capital) of a company is formed from the nominal value of the company's shares acquired by shareholders and is expressed in the national currency of the Republic of Uzbekistan. All shares issued by the company must have the same nominal value".

A share indicates the ownership stake in a company. The shareholder has the right to receive dividends and to participate in decision-making in managing the legal entity.

Based on the above, a share is a document that confirms ownership in a joint-stock company and the right to receive a portion of its profit in the form of dividends. The crime under investigation occurs when such a share is issued in foreign currency and the procedures for its conversion are not followed.

The concept of bonds in foreign currency is relatively new in Uzbekistan. Since 2020, the Central Bank of Uzbekistan has actively started issuing international bonds. Starting from January 2020, Central Bank bonds began circulating. So far, bonds worth approximately 1.4 trillion soums have been issued and placed in commercial banks.

According to the Explanatory Dictionary of the Uzbek Language, a bond is defined as: "A type of security that yields income in the form of interest or profit."

According to Article 741 of the Civil Code, a bond is a security that certifies the bondholder's right to receive from the issuer the nominal value or another property equivalent within a specified period. The bond also gives the holder the right to receive interest or other property rights based on the bond's terms [3].

A bond is a security issued by a legal entity or the state to attract capital and investment and acts as a debt instrument. Bondholders are creditors and are entitled to receive interest until the bond matures.

The concept of foreign currency bonds refers to financial securities issued outside the territory of a particular country and sold in foreign currency. These are debt instruments sold on foreign markets by corporations, states, or governments and represent the issuer's liability to the investor.

Treasury obligations of the Republic of Uzbekistan are emission securities confirming that the holders have contributed funds to the State Budget of Uzbekistan and entitling them to receive a fixed income throughout the holding period.

Like bonds, treasury obligations are considered securities. However, treasury obligations are issued for the short term (up to one year), while bonds are medium- and long-term securities.

In Uzbekistan, treasury obligations started being issued

in 2018. The Cabinet of Ministers of the Republic of Uzbekistan adopted Resolution No. 1016 dated December 14, 2018, "On Measures to Organize the Issuance of Government Treasury Obligations and Bonds of the Republic of Uzbekistan" [4].

The proposal of the Ministry of Finance and the Central Bank of Uzbekistan to issue government treasury obligations and bonds (government securities — GS) starting from December 2018 was approved [5].

The main characteristics of foreign currency treasury bonds include:

- a. They are issued in foreign currencies such as US dollars, euros, Japanese yen, etc.
- b. They provide periodic interest payments and are repayable at maturity.
- c. Their credit rating reflects the issuer's reliability and ability to repay.
- d. They can be sold in the market before maturity, making them liquid assets.

A deposit certificate (Depositary Receipt) is a non-emission security that confirms the deposit amount placed in a bank and the depositor's (certificate holder's) right to receive the deposit amount and interest agreed upon in the certificate from the issuing bank or any of its branches after the maturity date. The certificate's value is expressed in the national currency of Uzbekistan. Issuance of certificates in foreign currency is prohibited. Certificates are issued for terms ranging from 6 months to 3 years (from the date of issue to the date the holder is entitled to demand the deposit) [6].

A foreign currency security, such as a bond, is issued not in the national but in foreign currency. The issuer may be a state, corporation, or organization. A key feature of such bonds is that interest payments are made in foreign currency. The advantages of foreign currency bonds include easier access to foreign markets and lower inflation exposure.

DISCUSSION

Jewelry and household items made from precious stones and precious metals cannot be considered the subject of the crime being discussed. In this type of crime, precious metals and stones are considered currency valuables only in their pure form. When precious stones are used to make jewelry, various chemical compounds are applied and processed, which causes them to lose their original form.

Jewelry and other items made from precious metals and precious stones—such as adornments, household items, and religious objects—are crafted from precious metals or their alloys with a minimum level of purity as

specified in the law. These items may be decorated using various techniques and may or may not be embedded with precious stones or other materials. Additionally, they can be made from natural or artificial materials with decorative processing and embedded with precious stones.

Gold or silver ingots, as well as coins and decorations made from precious stones, are not considered currency valuables and therefore are not deemed the subject of currency crimes. According to Resolution No. 3056 of the Board of the Central Bank of the Republic of Uzbekistan dated August 20, 2018, precious coins, gold ingots, state awards, or insignia issued into circulation in our country are also not considered the subject of currency crimes.

Currency denominations made from precious metals, standard and measured ingots, as well as state awards, medals, and sports awards made from precious metals and stones, are not included in the category of jewelry and other items made from such materials.

According to M. Kh. Rustamboyev, "Jewelry and household items made from gold, as well as gold scraps and fragments, cannot be considered the subject of a crime. Likewise, regardless of appearance or condition, other precious metals and precious stones (including artificial ones) also cannot be considered as the subject of the offense in question." Based on this reasoning, gold or other jewelry and household items made from precious metals cannot be considered the subject of the crime being analyzed.

According to Article 177 of the Criminal Code, precious metals and stones are not considered the subject of the crime; the legislator includes only pure refined gold in the category of currency valuables. However, the illegal circulation of precious metals and stones can also negatively impact the country's economic system.

CONCLUSION

As a subject of a crime, jewelry, household items, and their fragments made from precious metals or stones are not recognized. As explicitly stated in Chapter VIII of the Criminal Code, jewelry, household items, and their fragments made from precious metals or stones do not meet the criteria of Article 177 of the Criminal Code and are not considered the subject of a crime.

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