



System of Legal Means of Ensuring the Financial Security of the Russian Federation at Post-COVID Period

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INTRODUCTION

Security in the general sense is understood as the state of protection of various objects from external and internal threats. In this case, security arises as a result of the activities of the subjects providing it. With regard to this study, financial security should be defined as the security of the financial system from various destructive influences.

In this regard, it is highly relevant to study financial security as a legal category, since the achievement of such security is possible only with the help of appropriate legal means that form its basis and, as a result, ensure the stability of other state and social mechanisms (Bogoviz et al., 2020a, 2020b). Such a study is of particular importance in the modern conditions of the fight against coronavirus, as well as in the post-COVID period of the functioning of the state and development of society.

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Financial security as a legal category implies that it is required to establish its certain relationship with the law as a set of regulations governing certain relations. Issues related to legal means of ensuring security, including those that should operate in the post-COVID period, are inextricably linked to issues of a more general plan, since financial security is, although one of the most important, but still part of economic security. In turn, economic security forms the basis of the stability of the state and society, ensures the well-being of all citizens. This is of particular relevance in modern conditions, since the financial systems of different states not only interact with each other, but also influence each other in a certain way, and not always in a positive way. Thus, the importance of ensuring financial security today is due to the extreme importance of finance for the economic development of the state. Based on this, we conducted a study of the concept of legal means of ensuring financial security as a system of legal regulations with their characteristic properties. Thus, the external and internal boundaries of the prescriptions have been determined, the statuses of the subjects they concern have been investigated, as well as the ways of the impact of legal means on the relations arising in the financial sphere in order to ensure their stability.

In order to characterize the system of legal means of ensuring financial security, it is required to establish the true meaning of the category of ensuring financial security, the content of which is made up of a combination of a number of elements. At the same time, the peculiarity of financial security as an object of legal regulation lies in the peculiarity of the absence of a single normatively defined structure that makes up its content.

METHODOLOGY

The main aspects related to the development of the author's concept of legal means of financial security of the Russian Federation, as well as the establishment of a system of these funds, were considered using a number of methods. These include such as the general scientific system method, logical methods—analysis and synthesis. The use of the systemic method made it possible to consider legal means as a single complex phenomenon, as well as to identify their features in relation to financial security.

The problems of digitalization of the economy and law have been widely considered by scientists: Gutbrod (2020), Inozemtsev (2021),

Sidorenko and von Arx (2020), Osipov (2020, 2021a, 2021b), Shashkova et al. (2020).

Such private scientific methods as historical-legal and formal-legal, provided an opportunity to trace the development of legal means of ensuring the financial security of the Russian Federation, as well as to work out the optimal combination of these means within their common system. As a result of an integrated approach, the conclusion was substantiated that it is necessary to develop a regulatory and legal framework for ensuring financial security, including the norms that are included in regulatory legal acts of various levels. The prospects for the modernization of norms in the post-COVID period of the functioning of the state and the development of society are outlined.

RESULTS

In the generally accepted sense of the word, a means is defined as a technique, a method of action to achieve something. With regard to the problems under study, a legal remedy should be assessed as a set of legally significant actions that are carried out by the relevant subjects within the law and ensure the achievement of socially significant goals (Puginsky, 1984).

In this regard, we can highlight the most characteristic features inherent in the phenomenon of “legal means”:

1. such means revolve around the legal matter, as a result of which they are intended solely for solving legal problems;
2. there is a specific circle of subjects who are authorized or authorized to use legal means in their activities, thereby implementing them;
3. depending on the specific goals and objectives, it is possible to use only those legal means that are intended for their solution, as a result of which they are directly determined by legal regulation;
4. legal means, as a rule, involves the use of measures of state coercion, which indicates their imperious nature;
5. the use of legal means entails legal consequences that make it possible to judge their positivity and effectiveness in terms of optimizing legal regulation.

The foregoing makes it possible to define legal means as specific tools, techniques and ways through which the subject of law, using the principle of legality, streamlines certain social relations and thereby achieves the goals of legal regulation.

Undoubtedly, an important issue is also the definition in general of the legal nature and its functions in the course of ensuring financial security. It is important to note that it was during the pandemic that fraudsters specializing in cybercrimes in the financial sector became more active, therefore the urgency of solving financial security problems has sharply increased for all countries of the world. It seems that legal means allow: (1) to highlight which of them are legal and which are not; (2) to study the mechanism of legal regulation from a different point of view, in particular to study the set of legal instruments that regulate public relations; (3) analyze and summarize a certain range of acts in order to propose effective ways of their regulation. In this regard, based on the subject of the study, it is necessary to determine the role of legal means in the course of ensuring financial security from the point of view of methodology. Obviously, this issue is complex due to the versatility of the concept of legal means. As a rule, the term “legal means” is most often used from the perspective of ensuring national security, where financial security is an integral component (Alimov, 2017; Fedotova, 2015; Filippova, 2011; Sattarova, 2017; Shemonaeva, 2015).

At the same time, in theory and law enforcement practice, there are many problems associated with the use of legal means in the course of ensuring financial security. As noted by some scholars, this is due to the lack of a unified approach to understanding this essential legal element, as a result of which it is impossible to fully optimize the mechanism of legal regulation (Malko, 1999). In the course of ensuring financial security, the entire complex of means should be used, and not only the financial and legal means themselves. This should include both administrative and legal means, and criminal law means, as well as a number of other sectoral means. This is determined by the fact that only the entire arsenal of legal means will reliably ensure financial security. In the legal literature on this matter, it is said that organizational and legal means help to create management and functioning systems in the field of financial security, and actually financial ones solve the issue of covering the costs associated with the activities of the relevant state bodies, technical means serve to equip such bodies with the necessary infrastructure, for example for the implementation of useful and effective information exchange. Unlike all

designated means, legal means have a special purpose, since they have the necessary regulatory impact on those persons whose proper behavior is associated with a safe state of the financial sector (Kucherov et al., 2020).

It should be noted that legal means while ensuring financial security allow achieving socially significant results of regulation of financial, economic, state-political and some other relations (Povetkina, 2018). Through the use of legal means, it seems possible to implement various functions of law (for example, regulatory, protective, educational, etc.), as well as achieve goals, objectives, establish legal liability measures and identify various risks and threats that may negatively affect the overall financial security system. It is obvious that the efficiency and productivity of activities related to ensuring financial security depends entirely on the correct chosen legal means or their combination, and this will also reduce the occurrence of adverse consequences. At the same time, financial legal means (for example, financial control) play a preventive role, since they hinder the development of various threats and challenges to financial security.

This statement allows us to conclude that legal means are inherent in both general social functions, which include economic, political, cultural, educational, and specialized functions: regulatory and protective. In our opinion, the specificity of the post-COVID period of the functioning of the state and the development of society will be the use of such legal means, taking into account the transition to digital technologies, as well as the creation of legal norms operating in a changed socio-economic environment.

In the scientific literature, the mechanism for ensuring financial security is defined as a system of regulatory and legal means, as well as the presence of institutional structures that ensure their implementation, which prevents threats to financial security and reduces their impact (Shishko, 2006). Therefore, it can be assumed that the security mechanism, i.e. ensuring the state of security of financial flows is carried out on the basis of:

1. the legal framework for regulating relations related to ensuring financial security;
2. the terms of reference of officials of public authorities who are obliged to ensure law and order in the field of public finance;
3. activities carried out by authorized entities aimed at protecting (protecting) the financial interests of the state.

By the system of means of ensuring financial security, we mean a set of legal norms that determine financial and legal regulation, the creation of conditions and the powers of security entities in the field of public finance. Legal support of financial security includes a set of certain means and methods aimed at protecting the financial interests of the state. In the course of ensuring financial security, the entire complex of means should be used, and not only the financial and legal means themselves. This should include both administrative and legal means, and criminal law means, as well as a number of other sectoral means. This is determined by the fact that only the entire arsenal of legal means will reliably ensure financial security.

At the same time, it should be pointed out that ensuring financial security is achieved by observing financial discipline by all participants, one way or another related to the movement of financial flows, the functioning of the financial system (Sattarova, 2009). Most financial lawyers view strict adherence to financial discipline as a manifestation of the principle of legitimacy in public finance (Rovinsky, 1960). However, one can hardly agree with the statement that only the implementation of the protective function of financial law is associated with the action of the named principle. This principle is inherent in law in general. However, the legality is ensured in the field of public finance, the movement of financial flows mainly with the help of protective equipment. The protective function of financial law is a manifestation of its ability to protect the most important interests of society as a whole and its individual members, due to its social purpose and the direction of legal impact on public relations in the field of public finance, as well as displace phenomena that are alien to the corresponding financial system. Consequently, the result of the protective function of financial law is such a state of public finances, which is characterized by accurate and timely fulfillment by the participants of financial legal relations of their duties.

As it is known, the main purpose of using financial legal means is to strengthen the rule of law. Legality is one of the key legal categories. Meanwhile, its definition causes serious controversy among scientists. Some authors interpret the concept of legality too broadly, including not only the requirements for observance, strict implementation and correct application of laws and by-laws adopted in accordance with them, but also the legislative activity of the state itself, as well as laws (Tagiev, 2001). Indeed, legality is directly related to laws and legislative activity. The laws and by-laws adopted in accordance with them together form the basis of

legality, but they are not identical to it and are not its elements. In the field of public finance, in the mechanism of functioning of the financial system and financial flows, the requirements of legality are as follows:

1. strict observance of the Constitution or Basic Law, and other legal acts adopted on its basis by all state and local authorities, without exception, their officials, citizens and organizations that are subjects of public finance;
2. the execution of financial acts only by authorized bodies and persons within the limits of the competence of each of them strictly outlined by financial legislation;
3. execution of financial acts in strictly defined forms provided for by the legislation;
4. development of a strict hierarchy of normative legal acts governing financial relations, assuming the supremacy of laws among them;
5. ensuring the hierarchy of normative legal acts, which does not allow the contradiction of lower-level acts with higher-level ones;
6. adoption of legal acts in accordance with the requirements of the law-making procedure and the rules of legislative technique, taking into account economic laws and requirements of financial expediency in the development and adoption of legal acts;
7. timely adoption, amendment and repeal of laws regulating public relations in the field of public finance, as well as financial acts by competent authorities and persons in the manner prescribed by law;
8. ensuring the stability of laws governing public relations in the field of public finance, as well as financial acts;
9. accurate and uniform application of laws governing public relations in the field of public finance, as well as financial acts in full accordance with their meaning and compliance with the organizational forms established by law;
10. execution of laws governing public relations in the field of public finance, as well as financial acts to the extent and meaning that are provided for in them;
11. ensuring the implementation of laws governing public relations in the field of public finance, the movement of financial flows, as well as financial acts by all necessary material, legal and ideological means;

12. implementation of constant control over the execution, observance and application of laws regulating public relations in the field of public finance, as well as financial acts by state bodies, local self-government bodies, their officials, citizens and organizations.

The listed requirements constitute the main link in the system of legal support for financial security and are in direct interconnection, complement and condition each other, acting as a single set of means to ensure the correct observance, implementation and application of laws and laws adopted on their basis and in pursuance of other legal acts (Kerimov, 2000). Legality in modern conditions for the implementation of financial security of the state and municipalities as an independent, complex socio-legal phenomenon is a specific historical state of legality, supported in the field of public finance, both in the legislative material itself and in the process of its implementation. In understanding the system of legal support for financial security, the key point in the concept of legality in general and in relation to public finance in particular is the category of legality. This category can be considered as the consistency of subjective rights reflected and enshrined in the current financial legislation, with the very rules and principles for the implementation of public finance. Legality covers, of course, the scope of the current legislation; here it reflects the consistency between the financial legislation itself and the legal nature of public finance, as well as the orderliness in the very system of legislation.

The importance of the rule of law in the field of public finance increases during the period of economic transformation. Legality is organically linked with legislative activity and legislation, as well as with the rule of law, the form of implementation of which in the field of public finance is financial discipline. In order to determine the financial legal means of ensuring financial security, it is necessary to indicate that the financial rule of law is the result of the operation of financial law. It is the achievement of the rule of law that will allow the law from an abstract rule of behavior to turn into a real regulator of the movement of financial flows. The rule of law is an objectively and subjectively conditioned state of public life, which is characterized by internal consistency, a regulated system of social relations based on regulatory requirements, principles of law and legality, as well as on moral requirements, rights and obligations, freedom and responsibility of all subjects of law. At the same time, the understanding of the rule of law must be associated not only with lawful,

but also with illegal behavior in society, the quality of the latter and its volume (Privezentsev, 1997).

It can be stated that there can be no law and order and financial discipline in the absence of laws and legality, as well as the meaning of the creation, existence and operation of laws and legality is to establish law and order, expressed in the field of public finance in the form of financial discipline. Consequently, one can speak of financial discipline as such a state of public finance, which is characterized by accurate and timely execution by state bodies, local authorities, their officials, citizens and organizations assigned to them in accordance with the instructions contained in acts of financial legislation, financial obligations.

Financial discipline is one of the varieties of state discipline and is considered as a form of implementation of the rule of law in the field of public finance. Based on this, financial discipline is aimed at ensuring the rule of law in the implementation of financial activities of the state and local government. The main goal of establishing and maintaining financial discipline is to ensure: spending budget funds in accordance with their intended purpose; strict adherence to the regime of their saving; economic growth; maintaining the stability of the monetary system; property interests of individuals and organizations; the validity of financial transactions; publicity of financial transactions, unless otherwise provided by the legislation of the Russian Federation; efficiency of financial transactions. At the same time, it should be noted that financial security is achieved by pursuing a unified state policy in the field of ensuring the security of the financial system, a system of economic, political, organizational and other measures that are adequate to threats to the financial interests of the state.

To create and maintain the required level of protection of financial security objects in the Russian Federation, a system of financial legal norms is being developed that regulate relations in the field of budgetary, tax, monetary security, the main directions of the activities of state authorities and administration in the field of public finance are determined, and financial control mechanisms are being formed and monitoring. The requirements of legality in the field of public finance regarding financial discipline and security are as follows: (1) full receipt of income provided for by the relevant financial planning act; (2) the validity, purposefulness and efficiency of the use of funds released in accordance with financial planning acts; (3) full and timely fulfillment by the participants of financial relations of their obligations to transfer the funds due from them to the budgets of the corresponding level; (4) strict observance of the rules

established by law for the implementation of operations for the attraction and use of funds, cash and non-cash payments, cash transactions, as well as the rules for accounting for funds and transactions with them.

While maintaining the balance of financial interests of the individual, society and the state, one should proceed from the principle of inevitability of punishment and the application of measures of state coercion against violators of financial legislation. It is coercion that makes law the unique instrument of influencing public relations, which it has been over the past several thousand years. Providing legality and law and order, state coercion itself must remain legitimate, i.e. must be applied exclusively by specially authorized persons within the limits of the norms provided by law. At the same time, the rationality of financial policy is to maintain a “golden mean” between the interests of the state and private capital. Only under this condition economic growth and social stability are possible in the country. Legal means used by public authorities in order to effectively ensure the financial interests of the state are an integral element of a single financial and legal mechanism for legal support and protection of the financial interests of the state and municipalities. Legal means of ensuring financial security should be understood as legal norms and individual legal acts used by officials of public authorities aimed at ensuring the protection of the object of financial security, at eliminating threats to the functioning of the financial system. The system of legal support for financial security is conditioned by objective factors. The main objective factor influencing the definition of the financial security system is the financial activity of the state.

The characteristics of the elements of the system of financial and legal support for financial security made it possible to state the lack of a clear definition of the concepts of financial security, financial security measures, legal regulation of the application of security measures in the current financial legislation. The legal norms that make up the content of the system of legal foundations for ensuring financial security, establishing the objectives of the entire system, must ensure the effective operation of public authorities that ensure the protection of the financial interests of the state. The basic rules governing the sphere of ensuring financial security should be contained in the Federal Law “On Financial Security”, the provisions of which would be developed and concretized in financial legislation. In this law, it seems necessary to fix:

1. definition of basic terms related to the legal provision of financial security;
2. general provisions for countering threats in the field of public finance;
3. a clear list of threats to financial security, with detailed source content;
4. the powers of public authorities providing financial security;
5. measures of legal coercion against violators of the law on financial security.

An effective regulatory framework for financial security is the most important condition for its consistency, since it ensures the legitimacy, integrity and interconnection of elements.

DISCUSSION

In the theory of law, legal means are considered as norms of law, individual prescriptions and orders, contracts, means of legal technology, all other regulatory instruments considered in the unity of their characteristic content and form (Alekseev, 1987). Legal means are also determined through the phenomenon of legal phenomena, which, in turn, are expressed in institutions (regulations) and acts (technologies), with the help of which the interests of the subjects of law are satisfied, the achievement of socially useful goals is ensured (Matuzov & Malko, 2001). Legal means are considered both in the narrow and in the broad sense, which distinguishes the essential and substantive elements of this legal phenomenon. So, in a narrow sense, legal means are legally significant actions that are committed by subjects with a certain degree of discretion in order to achieve those goals that do not contradict the legislation and the interests of society. If we consider legal means in a broad sense, then here we should understand the legal instruments that allow their subjects to solve the assigned tasks (Puginsky, 1984).

Legal means are understood as: methods of protecting rights, measures of operational influence, transactions, measures of responsibility, contracts, non-contractual obligations, presumptions, fictions; permissions, prohibitions and positive obligations (Sapun, 2002); norms and principles of law, legal facts, subjective rights and legal obligations, benefits, incentives, penalties, law enforcement acts (Popinov, 2005); methods of legal regulation (Znamensky, 1980); norms and legal relations

(Petrova, 2003); legal relations and sanctions (Polonsky, 1980); legislative initiative, conciliation commissions, referendum, complaint, claim, statement, petition (Baturina, 2001); methods and techniques of action developed by legal practice and expressing the optimal options for the behavior of the subjects of relations at the stage of the implementation of law (Mints, 1983); legal possibilities inherent in the norms of civil legislation used in the process of implementing these norms (Kalmykov & Barinov, 1984), legal phenomena expressed in instruments (regulations) and acts (technologies), with the help of which the interests of legal entities are satisfied, the achievement of socially useful goals is ensured (Andreev, 2010). As follows from the above definitions, most scholars include legal norms or stable legal constructions as legal means. The study of the scientific works of these authors allowed us to form the author's position on the essence and content of the system of legal means of ensuring financial security in relation to modern legislation and the financial model operating in the state.

CONCLUSIONS

Ensuring financial security depends on the development and implementation of managerial decisions of the state, authorities, business entities, as well as means of ensuring security. One of the most important structural elements of the system of legal support for the financial security of the state is the system of security actors in the field of public finance. In the light of the foregoing, in the post-COVID period, the system of legal means of ensuring financial security can be represented in the form of legal tools, with the help of which the state of security, stability and reliable functioning of the financial system of the state is guaranteed and maintained, and which:

1. allows to ensure the financial stability of the state for the forecasted period in any conditions, including minimizing the consequences of the coronavirus crisis of the monetary and financial-credit systems;
2. neutralizes the influence of world finances and economic expansion of foreign countries on national security, including in the post-COVID period;
3. satisfies the needs of society for financial resources and ensures economic growth, which will allow overcoming the negative consequences of the lockdown;

4. is able to withstand existing and emerging dangers and threats that seek to inflict financial damage on the state, cause the state to become dependent on external factors, undermine the competitiveness of domestic producers, and cause an outflow of capital;
5. ensures the flexibility of legislation in carrying out economic transformations, as well as the compliance of national legislation with international standards;
6. ensures the protection of the financial interests of the state and society, even in the face of potentially possible new waves of coronavirus infection, lockdowns and other restriction measures;
7. has an effective financial control mechanism in the distribution and use of public funds flows, especially in a pandemic when business opportunities are limited by a lockdown;
8. creates the investment attractiveness of the jurisdiction by creating an appropriate investment climate and legal regime for the protection of foreign investment;
9. provides efficiency in the use of administrative methods in the formation of the revenue side of the budget. The main legal means of ensuring financial security should include the legal regulation of the financial activities of the state (legislation), based on
 - a. legal forecasting;
 - b. financial control and financial monitoring;
 - c. legal liability.

The content of the system of legal means for ensuring the financial security is a set of legal norms that determine financial and legal regulation, the creation of conditions and the powers of security subjects in the field of public finance. Legal support of financial security includes a set of certain means and methods aimed at protecting the financial interests of the state.

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