

**LEGAL SUPPORT OF INTERNAL FINANCIAL SOVEREIGNTY OF THE RUSSIAN FEDERATION
IN THE CONTEXT OF NEW CHALLENGES AND THREATS******Alexander A. Sitnik***Kutafin Moscow State Law University (MSAL), Moscow, Russia***Article info**

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The subject. Internal financial sovereignty is a complex and multidimensional phenomenon that permeates all spheres of public financial activity. Internal financial sovereignty is manifested in the real ability of the state to ensure the supremacy of financial legislation, in the sufficiency of its own funds for implementation of its tasks and functions, in the stability of the budget system, the system of taxes and fees, the financial market, the monetary system, including the national payment system, in the preservation of the purchasing power of the national currency, etc. Internal financial sovereignty largely depends on the quality of its legal support, covering the main structural elements (sub-branches and institutes) of financial law.

The purpose of this article is to identify problems and trends in the legal provision of internal financial sovereignty at the current historical stage of development of social relations.

The methodological basis of the research consists of the principles and categories of materialistic dialectics, systematic, formal-logical and formal-legal methods.

Main results. The author notes that the legal support of internal financial sovereignty under the influence of new challenges and threats is characterized by increase in the variability of special legal regimes, expansion of public-law regulation of financial relations to the field of private finance, and the state assuming a proactive role in financial legal relations. The state continues to face the task of ensuring the effectiveness of legal regulation of financial relations in conditions of restrictive measures taken by unfriendly states and international organizations, in the digital space, overcoming outdated models of regulation of a number of financial relations.

Conclusions. The current geopolitical situation has entailed the need to transform approaches to the legal support of internal financial sovereignty, accelerate decision-making, and change the principles of legal regulation. The state faces a difficult task for practical solution to ensure a balance of legal regulation of financial relations, which, on the one hand, should meet the challenges of the time, and on the other hand, should strive to balance public and private interests.

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1. Introduction

The issue of legal support of state financial sovereignty is one of the most discussed in the science of financial law today, which is obviously predetermined by the current geopolitical situation. In recent years, the financial and legal thought has made a significant step forward, having passed the way from a simple systematization of restrictive measures of unfriendly states and international organizations, aimed at destabilizing the financial system of Russia, and countermeasures aimed at levelling the negative consequences of the above mentioned “sanctions”, to complex theoretical concepts containing the analysis of the legal nature and origins of financial sovereignty, formulation of the definition for this concept, forecasting the main directions of its legal support.

We cannot fully agree with the opinion that ‘for the first time the concept of “financial sovereignty” sounded in 2022’. [1, p. 162]. At the current historical stage, the term was used in research studies much earlier [2 – 4]. Moreover, the prototype of the category under consideration can be found in pre-revolutionary textbooks on financial law. For example, S.I. Ilovaysky recognized the state as a “subject of financial supremacy” [5, p. 14 – 15], manifested in the issuance of financial laws. Similarly, V.G. Yarotsky spoke about the “financial supremacy” of the state power [6, p. 59]. Thus, the problem of legal support of financial sovereignty begins to take a definite shape as a direction of research at the turn of the XIX – XX centuries.

At the same time, it should be recognized that it is from 2022 that the category in question has been firmly introduced into scientific discourse. We believe that the “financial sovereignty” is the missing link, the acquisition of which will give greater coherence to the general part of financial law. It can be predicted

that “financial sovereignty” will become a supporting structure around which the financial and legal theory will be formed in the coming years.

More distinctive differentiation of internal and external state sovereignty in general [7, p. 578 – 589] and financial sovereignty in particular has become a trend in recent years. Thus, internal financial sovereignty reflects the supremacy of state power in the financial sector, and external financial sovereignty reflects its independence [8, p. 20, 26]. With regard to the internal and external aspects of financial sovereignty, legal support pursues interrelated, but still distinct objectives, and provides for the use of a different combination of legal means.

It should be recognized that due to the shift of attention to the problems of counteracting restrictive measures taken by unfriendly states, the issues of ensuring the independence of the Russian Federation, i.e. its external financial sovereignty, have become prevalent on the pages of scientific publications. In this regard, it seems necessary to focus on the problematic aspects of the legal support of *internal* financial sovereignty. Nevertheless, it is necessary to agree with the opinion of E.Y. Gracheva that the internal and external aspects of the category under consideration are “closely interrelated, interconnected, interdependent, and in most cases inseparable in their real manifestation” [9, p. 78 – 79]. In this regard, a great deal that will be said in relation to the internal financial sovereignty will be inextricably linked to its external expression. In addition, the following digest of the main trends and problems in the field of legal support of internal financial sovereignty does not claim to be exhaustive – it can be considered as an invitation to discussion and further scientific debate.

2. Main trends in legal support for

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internal financial sovereignty

The modern stage of development of financial law is characterized by an *increase in the variability of special legal regimes* aimed at ensuring internal financial sovereignty. Legal regime is a special order of legal regulation [10, p. 35 – 36], providing for the application of a specific set of legal means depending on specific life circumstances and aimed at giving orderliness to social relations in accordance with the objectives of state legal policy. Legal regimes ensure flexibility and elasticity of legal regulation. They are distinguished by the complex and combination of legal means regulating certain social relations and the intensity of their application, including taking into account temporal, territorial and other aspects.

In conditions of increased foreign policy turbulence, the Russian Federation has introduced a special counter-sanctions legal regime in order to ensure its supremacy in the financial sphere. The main characteristics of such a regime are manifested in the fact that it:

- represents a special order of legal regulation in the financial sector – provides a special combination of legal permissions and prohibitions, different from those established by the general legal regime, in order to create a “special focus of regulation” [11, p. 185], associated with ensuring the sustainability of the financial system of Russia and, consequently, ensuring its financial sovereignty;

- is established in order to ensure state financial sovereignty, protection of the rights and legitimate interests of the Russian persons – the special legal regime under consideration is aimed at reducing the negative consequences and/or compensation for the damage caused by illegal restrictive measures to the Russian Federation, other Russian public-law entities and private entities;

- is fixed by financial and legal norms – the

relevant legal regime is aimed at regulating public relations that develop in the process of financial activity, i.e. they relate to the subject of financial law. For example, the norms of article 4.2 of the Federal Law of 04.06.2018 № 127-FZ “On Measures to Influence (counteract) the Unfriendly Actions of the United States of America and Other Foreign States”¹ (hereinafter – the Law № 127- FZ), serving as a basis for the introduction and application of measures of influence (counteraction), ensuring the economic sovereignty of the Russian Federation, have a clearly expressed financial-legal nature, as they are primarily associated with the introduction of additional currency restrictions [12, p. 13];

- is temporary in nature – it is introduced until the cancellation of restrictive measures by unfriendly states;

- enshrines mechanisms for faster decision-making compared to the general legal regime – the unprecedented nature of the threats to state sovereignty required the abandonment of many legal formalities, as well as increased speed of decision-making to protect the supremacy of the state power in financial sphere. In this regard, many measures of influence (counteraction) aimed at ensuring the economic sovereignty and economic security of the Russian Federation are now introduced at the level of bylaws (primarily decrees of the President of the Russian Federation), and in some cases decisions of non-normative nature began to play the role of normative legal acts [13, p. 958].

Moreover, special *second-order* legal regimes can be distinguished within this regime. For example, the regimes for fulfilment of financial obligations in the currency sphere by Russian individuals who have fallen under restrictive measures on the part of unfriendly countries and fulfilment of obligations by non-

¹ Corpus of Legislation of the Russian Federation. 2018. № 24. Art. 3394.

residents of friendly and unfriendly countries have been differentiated. The legislation on the national payment system identifies legal regimes for the functioning of foreign money transfer operators and operators of foreign payment systems in the territory of Russia, which create mechanisms for control over these persons by the Russian regulator of the national payment system, etc. These special legal regimes are ultimately aimed at strengthening the supremacy of the Russian Federation in the field of finance.

Another trend is related to the *extension of Russian internal financial sovereignty to the territory of a number of neighboring foreign countries*. For example, according to the legislation on taxes and fees, from January 1, 2023 the experiment on introduction of a special tax regime “Tax on professional income” was extended to the territory of the city of “Baikonur”². Since 2008, on the basis of treaties on friendship, co-operation and mutual assistance concluded with Abkhazia and South Ossetia³, the Russian national currency has been the legal tender in the territory of these states.

It is also possible to trace a trend towards *expansion of public-law regulation of financial relations on private finances*. In order to ensure financial supremacy, strengthen legality and increase discipline of subjects of financial legal

relations, the state more actively introduces into the orbit of financial and legal regulation public relations, which previously belonged to the area of private finance. For instance, since 2021, a treasury support system has been introduced, which provides for control by the Federal Treasury over funds allocated under government contracts. Prior to that, the funds transferred to suppliers were considered as private finance and were not subject to the provisions of budget legislation. In the context of this issue, the conclusions drawn by the Judicial Chamber on Economic Disputes of the Supreme Court of the Russian Federation on 27 August 2024, № 304-ES24-1886 regarding the case № A67-6227/2022⁴, in which the court recognized as lawful a treasury audit carried out in relation to the targeted spending by a private clinic of funds received under compulsory medical insurance, are also interesting. Thus, the funds allocated from the budgets of the budgetary system and transferred to the disposal of private entities continue to be the object of financial and legal regulation and control, since they are paid to achieve publicly significant results.

Noteworthy is the change in the approach of the state to ensuring its internal financial sovereignty – increasingly, in addition to retrospective response to certain situations (in particular, to cases of violation of financial supremacy), carried out *ex post facto* (schematically it can be described as “establishment of a norm of law – control – application of coercive measures”), *a proactive approach based on anticipatory response began to be applied* [14, p. 67]. Proactivity is most vividly manifested in the formation of the financial market infrastructure and payment space of the Russian Federation. The state initiates the formation and ensures the functioning of entities whose activities are key to

² See: part 1.4 of art. 1 of the Federal Law of 27.11.2018 № 422-FZ ‘On Conducting an Experiment to Establish a Special Tax Regime “Tax on Professional Income”’. Corpus of Legislation of the Russian Federation. 2018. № 49 (Part I). Art. 7494.

³ Treaty on Friendship, Cooperation and Mutual Assistance between the Russian Federation and the Republic of Abkhazia (signed in Moscow 17.09.2008). Bulletin of international treaties. 2009. № 5. P. 59 - 65; Treaty on Friendship, Cooperation and Mutual Assistance between the Russian Federation and the Republic of South Ossetia (signed in Moscow on 17.09.2008) // Bulletin of international treaties. 2009. № 5. P. 68 - 74.

⁴ The document has not been officially published. See: SPS “ConsultantPlus”.

maintaining the stability and development of the financial market and the national payment system. Examples include NSPK JSC, which is the operator of the Russian most important retail payment system MIR, Limited liability company Fund of Banking Sector Consolidation Asset Management Company, which on behalf of the Bank of Russia takes measures for financial rehabilitation of credit institutions, prevention of bankruptcy of insurance entities or non-state pension funds, Russian National Reinsurance Company, Joint-Stock Company (RNPC), which is the largest Russian reinsurance entity, etc. In order to support the activities of such entities, the government may introduce a preferential legal regime granting them additional rights or exempting them from certain obligations. The activities of such organizations create new opportunities for both other professional participants of the financial market and consumers of financial services, and may require financial institutions to change their approach to conducting business activities. Another example concerns the Federal Treasury, which after the entry into force on January 1, 2023 of the provisions of Chapters 24.2 and 24.3 of the Budget Code⁵ of the Russian Federation, which establish the rules for functioning of the treasury payment system [15 - 16] and implementation of treasury services [17], received the right to manage the balances of funds on the single treasury account. Now the named federal executive body has the right to invest temporarily free budgetary funds, generating revenues of the budgets of the budgetary system⁶. Based on the above, we can conclude

that recently the paradigm of cash management in the process of execution of budgets of the budgetary system has changed significantly.

3. Problems in the field of legal support of internal financial sovereignty

The main threat to the internal financial sovereignty of the Russian Federation at present is undoubtedly caused by *restrictive measures taken by unfriendly states and international organizations*. It is traditionally noted that Russia ranks first in the world in terms of the number of “sanctions” imposed thereon⁷. At the same time, the Russian financial system became the main object of unfair, politically biased influence from the USA and the countries that joined them. Leaving aside the obvious unlawful nature of financial “sanctions”, we should predict that they will remain in place for many years – the beginning of the SMO (Special Military Operation) was only a formal basis, but not the main reason for the introduction of restrictions. Thus, the special counter-sanctions legal regime in the financial sector will also remain relevant.

Modern states experience significant *difficulties in asserting the supremacy of their power (including in the financial sector) in digital (information) space* [18]. However, the science fairly emphasizes that the specified space “unlike the physical space, in the territory of which one or another state exists, not only has no restrictions in its volume ... but, moreover, has no natural boundaries” [19 p. 101]. The information space is extraterritorial in nature, which gives rise to objective problems in the legal regulation of social relations formed within its framework. For example, if earlier wire transfer payments could be carried out

⁵ Budget Code of the Russian Federation of 31.07.1998 № 145-FZ. Corpus of Legislation of the Russian Federation. 1998. № 31. Art. 3823.

⁶ For example, in 2024, the RF Treasury transferred RUR 1.1 trillion to budgets. See: The RF Treasury has transferred RUR 1.1 trillion to budgets since the beginning of 2024. TASS. 2025. Jan. 17. URL:

<https://tass.ru/ekonomika/22907185> (access date: 10.02.2025).

⁷ Russia Sanctions Dashboard. Castellum.AI January 19, 2025. URL: <https://www.castellum.ai/russia-sanctions-dashboard> (access date: 10.02.2025).

exclusively through specialized financial entities (in particular, banks), the activities of which are subject to control by authorized state bodies, then with the emergence of cryptocurrencies the need to involve intermediaries, though not completely eliminated, has significantly decreased [20, p. 61]. Cryptocurrency turnover today cannot exist without specialized market participants that provide conversion of cryptocurrency into fiat currency and back, trading (cryptocurrency stock exchanges), etc. At the same time, such entities currently operate largely outside the jurisdiction of national supervisory authorities. A final solution to the above problem is possible only if a consensus is reached globally, and therefore never. Due to global political contradictions [21], as well as fundamentally different approaches to the regulation of economic relations applied in the countries of the world, it is impossible to achieve harmonized regulation of cryptocurrency turnover in the near historical perspective.

The above example illustrates the fact that law, despite its inherent character of a universal regulator for social relations, has objective boundaries of its effect. Meanwhile, the analysis of modern economic relations allows to identify *legal lacunas*, including unregulated social relations, which can (and should) be subjected to an effective ordering influence on the part of the legal means at the disposal of the state. The above concerns, in particular, the so-called digital ecosystems, which operation simultaneously affects the IT, financial and real sectors of economy. In its turn, the above mentioned causes an increase in systemic risk of the economy as a whole, since crisis phenomena within one of these sectors may have a negative impact on other related sectors of the economy as well. It seems that currently there is a need to adopt normative legal acts that set out the procedure for admitting ecosystems to the market, requirements for their activities,

standards for ecosystem management and internal control systems, etc. Thus, a model similar to the one used for legal regulation of professional financial market participants should be applied to ecosystems.

One of the main means for ensuring internal financial sovereignty is financial control. The analysis of scientific publications on this issue shows that the authors (including the author of this publication), as a rule, proceed from the postulate “financial control is never too much”, formulating new and new proposals to improve the effectiveness of control and supervisory activities in the financial sector. One can assume that the practical implementation of the entire complex of such proposals will lead to overregulation of activities of economic entities and will have the opposite effect – instead of increasing the legality, it will provoke its decrease. At the same time, as already noted, there are certain areas of social relations (in particular, those connected to the circulation of cryptocurrencies [22, p. 139] and the activities of ecosystems) that fairly require increased supervisory attention from the state. One can assume that the conducted “fine-tuning” of the tax system [23] as a response will entail an increase of cases of concealment of the tax base (which always happens when increasing the burden of tax), and, therefore, will determine the need to raise the intensity of control measures. Thus, the supremacy of the state power in the financial sector largely depends on a *balanced approach to the regulation of financial control*.

Today the problem of *overcoming outdated models for regulation of a number of financial relations* is acute. Internal financial sovereignty should be ensured by the relevant financial legislation, taking into account the urgent needs of the subjects of financial legal relations. Thus, there is a clear need to develop a new law regulating currency relations. Since the

adoption of the Federal Law of 10.12.2003 № 173-FZ “On Currency Regulation and Currency Control”⁸ (hereinafter – the Law № 173-FZ), more than twenty years have passed, during which it was first amended to liberalize the rules of currency transactions, and then - to “conservatize” them. Furthermore, the fact that most of the currency restrictions introduced after February 2022 are established at the level of subordinate legislation of the President of the Russian Federation [24, p. 112 – 115], indicates that the existing currency legislation cannot provide effective regulation of currency relations in extraordinary conditions. In addition, it is necessary to consider changing the approach to financial and legal regulation of social relations in the financial market. After the World Financial Crisis of 2008 the Russian Federation switched to cross-sectoral regulation of the financial market, accompanied by unification of requirements to financial institutions. At the same time, each sector (securities market, insurance market, pension insurance market, etc.) continues to be regulated by a separate law [25, p. 111]. At the same time, the relevant laws were adopted in different periods of time, which often makes it difficult to perceive them as systematically related documents.

Finally, it is necessary to *raise the issue of increasing the index of comprehensibility (readability)* [26, p. 18 – 21] of financial and subordinate legislation. We can talk about the supremacy of law, which is an indispensable guarantee of ensuring internal financial sovereignty, only if the subjects to whom the state power dictate is directed, fully understand it. First of all, of course, this applies to natural persons who do not have special legal status and, accordingly, knowledge. The problem under consideration is probably not so acute for the budget legislation, which regulates the

operation of special subjects. At the same time, the text of the already mentioned Law № 173-FZ is very difficult to understand even with specialized training. Thus, it is full of norms containing repetitive, voluminous and monotonous lists of currency operations. This law is not intuitive due to its structure. For example, from the content of Law № 173-FZ it is difficult to identify the specifics of the legal status of residents residing outside the territory of the Russian Federation for more than 183 days. The presence of a significant number of cancelled articles and their parts, as well as structural elements with additional numbering does not contribute to the perception of the text of the law. The wording of the legislation on administrative offences establishing liability in the currency sector also does not comply with the basic rules of legal practice. Thus, in the current revision part 4 of art. 15.25 of the Code of the Russian Federation on Administrative Offenses⁹ contains a sentence consisting of 533 words. It seems that in this case the legislator has sacrificed the comprehensibility of the norm to its accuracy. As an example we can also cite the Federal Law of 07.08.2001 № 115-FZ “On Countering the Legalization (Money Laundering) of Criminal Income and the Funding of Terrorism”¹⁰, Article 7 of which occupies almost half of the volume of the normative legal act under consideration.

4. Conclusions

Summarizing the above, we note that internal financial sovereignty is a complex and multidimensional phenomenon that permeates all spheres of public financial activity. Internal financial sovereignty is

⁸ Corpus of Legislation of the Russian Federation. 2003. № 50. Art. 4859.

⁹ The Code of the Russian Federation on Administrative Offenses of 30.12.2001 № 195-FZ. Corpus of Legislation of the Russian Federation. 2002. № 1 (part 1). Art. 1.

¹⁰ Corpus of Legislation of the Russian Federation. 2001. № 33 (part I). Art. 3418.

manifested in the real ability of the state to ensure the supremacy of financial legislation, in the sufficiency of its own funds for implementation of its tasks and functions, in the stability of the budget system, the system of taxes and fees, the financial market, the monetary system, including the national payment system, in the preservation of the purchasing power of the national currency, etc. Internal financial sovereignty largely depends on the quality of its legal support, covering the main structural elements (sub-branches and institutes) of financial law. The significant scientific interest to the problem of legal support of financial sovereignty observed at present is objectively predetermined by the current state of financial relations, experiencing a negative impact of restrictive measures taken by unfriendly states and international organizations. The aforesaid has entailed the need to increase the flexibility of financial and legal regulation, the variability of applied legal means, as well as to accelerate the adoption of legal decisions. At the same time, legal support for internal financial sovereignty should not be reduced solely to counter-sanctions regulation – the respective issues will continue to be relevant even after the restrictions are abolished. It can be predicted that in the long run, just as human immunity strengthens after encountering a virus, the Russian financial system will eventually emerge from the current situation more resistant to external shocks. At the same time, in the process of struggle one should not go to extremes, unreasonably compromising the general legal principles in favor of the immediate political climate. The law is not ideal, but still the most reliable regulator

of social relations, whose effectiveness depends on the stability of the legal system and adherence to fundamental legal principles by all subjects of legal relations in the long term. Thus, the state faces a difficult task for practical solution to ensure a balance of legal regulation of financial relations, which, on the one hand, should meet the challenges of the time, and on the other hand, should strive to balance public and private interests.

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