

# THE PROBLEMS OF LEGAL REGULATION OF VIRTUAL CURRENCIES IN EU

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**Abstract:** *the virtual currency or cryptocurrency is a cryptographically protected decentralized digital currency used as means of exchange. Due to development of new technologies and innovations, the rate of using of virtual currency is rapidly increasing throughout the globe, replacing not only cash payment and payments by bank transfer, but also electronic payments. To resolve the legal aspects of the virtual currency, the European Union has also faced the need to create the appropriate legal regulation, but does not hurry with its adoption. Currently, there is no single legal definition of the virtual currency and general legal regulation in the EU, but some countries of Europe have defined the status of the virtual currency for taxation. The purpose of the article is to reveal problems of the virtual currencies legal regulation in EU.*

**Keywords:** *e-money, cryptocurrency, mining, virtual currency.*

## ПРОБЛЕМЫ ПРАВОВОГО РЕГУЛИРОВАНИЯ ВИРТУАЛЬНОЙ ВАЛЮТЫ В ЕС

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**Аннотация:** *виртуальная валюта, или криптовалюта, является криптографически защищенной децентрализованной цифровой валютой, используемой в качестве средства обмена. Благодаря развитию новых технологий и инноваций, темпы использования виртуальной валюты быстро растут во всем мире, заменяя не только платежи наличными деньгами и банковским переводом, но также и электронные расчеты. Для решения юридических аспектов виртуальной валюты Европейский союз также столкнулся с необходимостью создания соответствующего правового регулирования, но не спешит с его принятием. В настоящее время нет единого юридического понятия виртуальной валюты и общего правового регулирования в ЕС, хотя некоторые страны Европы определили статус виртуальной валюты для налогообложения. Цель статьи состоит в том, чтобы выявить проблемы правового регулирования виртуальной валюты в ЕС.*

**Ключевые слова:** *э-деньги, криптовалюта, виртуальная валюта.*

Virtual currencies or cryptocurrencies appeared due to technological progress and the evolution of money as a completely liquid medium of exchange. Indeed, originally money fulfilled a function of exchange of goods. It was then assigned to gold as the universal equivalent. The next stage - transition to paper money, until the emergence of electronic money.

The past ten years have seen the creation of a new class of digital instruments that are not issued by a sovereign institution or commercial bank, are not denominated in a sovereign unit, and do not have physical counterparts. Since these instruments may be used as a currency, they are variously labeled “electronic cash,” “digital currency,” “virtual currency,” or “cryptocurrencies”.

Virtual currency is usually not legal tender because it is not fiat currency, that is, the money that is issued by a particular country. Virtual money that transacts within the virtual world and not convertible to fiat currency is not, in strict legal sense, defined as virtual currency. It should also not be confused with e-money, which is a digital transfer mechanism for fiat currency [1, p. 310].

At the same time, a number of countries demonstrate a complete inability to respond adequately and competently to innovations and technological progress. To resolve the legal aspects of the virtual currency, the European Union has also faced the need to create the appropriate legal regulation, but does not hurry with its adoption. Currently, there is no single legal definition of the virtual currency and general legal regulation in the EU, but some countries of Europe have defined the status of the virtual currency for taxation.

The first attempt to provide the basis for a discussion on virtual currency schemes is a European Central Bank’s report “Virtual currency schemes”. It is important to take into account that these currencies both resemble money and necessarily come with their own dedicated retail payment systems; these two aspects are covered by the term “virtual currency scheme” [3].

In July 2014, the European Banking Authority (EBA) issued its considered opinion on virtual currencies. From its perspective as a prudential banking policy authority for the European Union, the EBA highlighted a lengthy list of risks to virtual currency participants, existing financial institutions, and regulators. The EBA

opinion concluded that in the short term, only the certain risks that arise during the interaction between virtual currencies and regulated financial institutions are able to be regulated.

These presently regulable risks would include the risk of money laundering and financial crime, contagion risk to conventional payment systems, and user-related informational risks. For these risks, the EBA has recommended that existing financial institutions should be discouraged from dealing with virtual currencies, thereby “shielding” them while at the same time mandating that virtual currency exchanges comply with anti-money laundering and counter terrorist financing requirements [4].

The European Commission has a similar definition that electronic money is a digital equivalent of cash, stored on an electronic device or remotely at a server. On 26 May 2016 the European Parliament adopted a resolution on virtual currencies (2016/2017(INI)), with the aim of implementing an approach for the legal regulation of the virtual currency at the EU level and identifying the problems associated with the use of the virtual currency [5].

By the end of 2016, legal regulation at the EU level had been adopted only with regard to preventing the financing of terrorism and the legalization of proceeds of crime, on the basis of which in October 2016 there was adopted the appropriate Opinion of the European Central Bank [6].

A number of countries demonstrate a complete inability to respond adequately and competently to innovations and technological progress. But the emergence of decentralized systems and virtual currency will inevitably lead to evolutionary changes not only in the European law, but also in international legal system. Detailed virtual currencies legal regulation in EU will certainly be a long process, with respect to the fact that the technology itself, which is about to be regulated, is developing faster than the legislator’s regulatory attempts.

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