

# INTERNATIONAL MODELS OF LEGAL REGULATION AND ETHICS OF CRYPTOCURRENCY USE: COUNTRY REVIEW

**Oksana Panova, Kharkiv National University of Internal Affairs**  
**Yulia Leheza, National Technical University Dnipro Politechnic**  
**Andrii Ivanytsia, Dnipropetrovsk State University of Internal Affairs**  
**Volodymyr Marchenko, H.S. Skovoroda Kharkiv National Pedagogical University**  
**Vitalii Oliukha, Institute of Economic and Legal Research**

## ABSTRACT

*The article considers the complex issue of the existence of national cryptocurrency markets and their legal regulation and ethics of use. The article provides an analytical review of leading models of legal regulation of cryptocurrency circulation in different countries of the world. The study was carried out in the methodological field: the development of the national cryptocurrency market, the legal interpretation of the cryptocurrency, the legal basis of circulation, ethics and the cryptocurrency exchange platforms, the directions of development of the national model of legal regulation and support.*

**Keywords:** Legal Regulation, Ethics of Use, Cryptocurrency, Legal Platform, National Model, Legalization, State Structures.

## INTRODUCTION

The growing demand for global socio-political and economic reforms has led to major changes not only in the so-called social contract, but also in the international legal system as a whole. Virtual currencies (cryptocurrency) have become one of the key tools on the way to these evolutionary changes. Attempts of effective legal regulation of cryptocurrency vividly illustrate the problems faced by government agencies around the world in shaping the optimal legal platform for the existence of a cryptocurrency business.

## METHODOLOGY

Today, cryptocurrency in the world is in a systemic legal vacuum. The emergence of the first types of cryptocurrency in the world was accepted negatively by various states, because, in fact, governments lost their main advantage—the issue of money. Methodically, this position is demonstrated by the concept of the Swiss researcher Elisabeth Kübler-Ross, in which there are five stages of acceptance of the inevitable in society: denial, anger, bargaining, depression, acceptance (Valente, 2018). The work of (Zetzsche et al., 2017) determined that at the initial stage of the emergence of cryptocurrencies, the attitude towards them by the governments was sharply negative, after which many states began to prohibit them and introduce responsibility for

the payments with the use of cryptocurrency. In the development of the situation, it became obvious that the process of issuing a cryptocurrency is impossible to control; the states made attempts at legal regulation of their circulation and taxation (Hacker and Thomale, 2017). Today, the situation is changing radically: international lawmakers tend to view cryptocurrency as a new promising direction in international legal relations (Drobyazko, 2019).

## RESULT AND DISCUSSION

Most international regulators continue to monitor the development of a cryptocurrency industry, not taking active steps to legalize it, but warning its own citizens about the risks associated with its use.

Thus, Australia provides today favorable conditions for the development of cryptocurrency industry. The Reserve Bank of Australia in 2013 defined the bitcoin cryptocurrency as an alternative to currencies of various countries and payment systems. At the same time, the Australian Securities and Investment Commission does not consider the digital currency (cryptocurrency) as a financial product, and the cryptocurrency activity is not subject to licensing. Currently, cryptocurrency transactions in Australia are subject to standard income tax and corporate tax. At the same time, when using cryptocurrency as an investment, it becomes necessary to pay capital gains tax. In addition, in Australia there is a legal opportunity to pay wages in a cryptocurrency, but only if there is a contract between the employee and the employer (Vandezande, 2018). Also, in Australia since 2016, legislation is also being actively developed in the sphere of countering the legalization (laundering) of proceeds from crime, which regulates the activity of cryptocurrency exchanges.

The UK is the leader of cryptocurrency integration and the most favorable jurisdiction for conducting a cryptocurrency business. At the same time, the position of the UK government in the legal regulation of cryptocurrency activities is not fully formed, and activities related to digital money are in the gray zone. However, the state intends to normalize cryptocurrency relationships. In 2016, the Financial Services Authority of the United Kingdom published detailed information about the initiative called Project Innovate, according to which participants in cryptocurrency relations have the opportunity to contact the Department to receive advice on their activities, develop their products and interact with users without breaking the financial legislation (Cvetkova, 2018). Today, the UK cryptocurrencies are considered a unique combination of numbers obtained as a result of complex mathematical calculations and, accordingly, they are not subject to the UK Money Laundering Regulations.

The European Union follows a different path in the issue of the legal regulation of cryptocurrency business, creating favorable legal and administrative conditions for its existence. None of the regulators (bodies) of the European Union has adopted any prohibiting special rules for the regulation of cryptocurrency activities. Back in 2012, the European Central Bank published a report in which it stated that the traditional regulation of the financial sector is not suitable for bitcoin. Bitcoin itself was defined in the document as a convertible decentralized virtual currency. The European Banking Authority drew attention to the fact that cryptocurrency exchanges are not banks, and their activities are not regulated, so users are not protected from monetary losses in case of their closure. In 2018, the European Commission announced plans to strengthen reporting standards for cryptocurrency exchanges and companies that provide cryptocurrency wallets to users (Bollen, 2013). In particular, the European Commission planned

to oblige the European cryptocurrency exchanges to carry out the mandatory identification of users.

In Norway, Finland and Germany, cryptocurrency is subject to capital gains tax and wealth tax. In Bulgaria, digital currency is considered as a financial instrument and is subject to relevant income taxes. In Austria, the cryptocurrency is considered by the tax authorities as an intangible asset, and its receipt is treated as an operating activity. Therefore, the income received as a result of its alienation is subject to income tax. (Dewey, 2019; MacDonell, 2014). In general, the legal regulation of cryptocurrency and operations with them in the European Union is carried out within the framework of the legal policy of countering the legalization (laundering) of proceeds from crime and the financing of terrorism.

Regarding cryptocurrency, the United States of America went through tax regulation in the field of cryptocurrency trading, forcing all American cryptocurrency exchanges to verify their clients. At the same time, the USA is one of the most convenient countries in the world for cryptocurrency business. But the legal regulation of digital currency in the United States is no less complicated than in the EU. This is mainly due to the peculiarities of the legal system of the state (the presence of both federal law and state law) and the lack of a common position among regulators regarding the legal status of a cryptocurrency.

So in 2012, the US Federal Bureau of Investigation published a report entitled "*Virtual Bitcoin, the unique features of which present certain difficulties in deterring illegal activities*". In it, the FBI expressed its concern about the possibility of carrying out illegal activities in the anonymous Bitcoin payment system. In 2013, representatives of the Federal Reserve System (Federal Reserve System) identified the cryptocurrency as "*a threat to the banking system, economic activity and financial stability.*" However, later, ItBit Trust cryptocurrency exchange, having received the the New York State Trust Company Charter from the Department of Financial Services, became the first officially regulated bitcoin exchange (Regulation of Cryptocurrency in Selected Jurisdictions, 2018). The US Constitution establishes the federal structure of the state. Accordingly, public relations related to cryptocurrency is governed not only by the federal legal system, but also by state legal systems (Cvetkova, 2018).

Canada ranks second in the world after the United States in terms of the level of development of the national cryptocurrency market. In order to better understand the blockchain technology, the state is developing a digital version of the Canadian dollar based on it. However, back in 2013, some of the major banks in Canada closed accounts of cryptocurrency exchanges due to the lack of a license to provide such Money Services Businesses (Dewey, 2019). And the Bank of Canada in 2014 stated that cryptocurrency does not fall under the modern definition of money. The cryptocurrency exchange is subject to registration with the Financial Transactions and Reports Analysis Center of Canada and is obliged to comply with legislation on countering legalization (laundering) of proceeds from crime (Hayes, 2016).

Without the appropriate registration, the exchanges cannot open a bank account. In another, the activities of companies are not regulated. Payment for goods or services using digital money is taxable as a barter transaction. In addition, the sale of a cryptocurrency is subject to income tax, corporation income tax or capital gains tax. The employee's salary received in cryptocurrency is subject to taxation.

In 2015, a report of the Senate Standing Committee Banking, Trade and Commerce was published, according to which the best strategy for dealing with cryptocurrency is monitoring the situation as technology develops. Canada continues to monitor the development of digital

currency and distributed technologies, carrying out legal regulation of cryptocurrency activities only when necessary.

China is one of the fastest growing financial and technological markets in the world. This is where most of the mining pools and cryptocurrency sites used for cryptocurrency distribution are located. In 2013, the People's Bank of China stated that there was no ban on the implementation of cryptocurrency operations. At the same time, bitcoins were defined as a kind of asset, not a currency (Pollock, 2018). In 2016-2018 70% of transactions in Bitcoin networks went through Chinese cryptocurrency sites, while 40% of all transactions were in the China cryptocurrency exchanges. Then it became known that virtual property could soon be recognized as the "*fundamental human right*" in China. The relevant definitions are contained in the new draft of the main provisions of the Civil Code of the country (Urquhart, 2016).

The current legislation of China does not contain certain special tax rules and transactions. At the same time, a cryptocurrency is defined as a virtual commodity, not a currency. The sale of digital money may be subject to VAT, and income and profits in a cryptocurrency are subject to income tax, corporate income tax and capital gains tax. Every year the number of cryptocurrency business incorporated in China is growing. At the same time, a unified state approach to the legal regulation of cryptocurrency relations in China is still not developed.

In Hong Kong, (until 2047, both Hong Kong law, influenced by the UK, and Chinese law will operate here), as well as in the UK, the cryptocurrency is in a legal vacuum, and tax laws do not provide any special rules for its taxation. In 2013, the Hong Kong Monetary Authority stated that bitcoins are a virtual commodity, and the regulator does not plan to regulate it. Thus, the tax laws of Hong Kong do not contain special rules regarding the taxation of cryptocurrency and operations with it. There is no explanation of the regulators about this.

Argentina. In 2014, the first cryptocurrency exchange was launched in Buenos Aires. And in 2015, the President of Argentina supported the idea of introducing Bitcoins in the country. And already from 2016, a number of services in Argentina can be calculated, including using bitcoins. At the same time, in accordance with the legislation of Argentina, the cryptocurrency is not a national currency, but can be considered as money or considered as a commodity or thing in accordance with the Civil Code. In Brazil, the Central Bank also first warned of the risks associated with the use of digital money. At the same time, in order to tax cryptocurrency transactions, the Federal Tax Service considers digital money as a financial asset (Pollock, 2018).

The legislation of such countries as Malaysia and South Korea is still forming a model of legal regulation of the cryptocurrency circulation and the rules for its issue, while the regulators of these countries decided to take the path of strengthening the convergence of legal regulations governing the circulation of cryptocurrency in order to counter the legalization (laundering) of proceeds from crime.

Let's consider the experience of Japan. In 2015, the Japanese government began to consider the possibility of adopting new rules aimed at countering the legalization (laundering) of criminal proceeds and the financing of terrorism, as well as the fight against other illegal activities. Accordingly, the exchanges that provided the opportunity to exchange cryptocurrency must be registered with the Financial Services Agency. In 2016, the government approved a bill that defined cryptocurrency as a legal form of payment, performing the functions of a traditional currency. But then the Japanese parliament passed another law, in which cryptocurrency was

already defined as a value, similar to assets, and a legal means of exchange, and not payment. Cryptocurrency operations in Japan are carried out according to standard rules established by tax legislation (Regulation of Cryptocurrency in Selected Jurisdictions, 2018). Thus, the income received by an individual as a cryptocurrency is subject to corporate income tax, and the profit of a legal entity in digital currency is subject to income tax. Moreover, the sale of cryptocurrency is subject to the Japanese equivalent of value added tax. A particularly significant event in the global regulation of cryptocurrency took place in Japan in April 2017, when a law came into force recognizing cryptocurrency as a means of payment (Dewey, 2019). The new law allows the use of cryptocurrency for payments along with traditional money and the movement of digital assets between counterparties. It seems to us that the Japanese legal model of regulation is most effective in the light of the legislative regulation of the cryptocurrency circulation.

## RECOMMENDATIONS

The recommendations are that almost all countries of the world understand that one way or another in the coming years they are closely confronted with the development of cryptocurrency circulation in the national legal and economic field and will have to react in accordance with the trends of doing business in own country. There will be completing of national legal systems with legislative documents in the field of cryptocurrency circulation, and such an analysis allows us to identify the tools that will allow the cryptocurrency to become a full-fledged protected factor in international relations.

## CONCLUSION

Thus, the generalization of existing positions in international practice suggests that virtually all leading countries of the world (except Japan) do not recognize cryptocurrency as money, means of payment or exchange, and circulation of cryptocurrency in their legal systems often contradicts legislation on national payment. Outlining the legal status of a cryptocurrency in the world, we see that most countries are waiting positively, such as the United States, Canada, Australia, some EU countries, and also China. The neutral position of a number of countries (European Union led by Germany, Latin American countries) is due to the lack of developed legislation governing cryptocurrency relations.

## REFERENCES

- Bollen, R. (2013). The legal status of online currencies: Are bitcoins the future? *Journal of Banking and Finance Law and Practice*, 24(2), 272–293.
- Cvetkova, I. (2018). Cryptocurrencies legal regulation. *BRICS Law Journal*, 5(2), 128–153.
- Dewey, J., (2019). *Global legal insights-blockchain & cryptocurrency regulation 2019*. Global Legal Group Ltd. London, United Kingdom.
- Drobnyazko, S. (2019). Results of introduction of the improved mechanism of economic security control of insurance companies. *International scientific journal Internauka*, 78(1), 9-11.
- Hacker, P., & Thomale, C. (2017). *Crypto-securities regulation: ICOs, token sales and cryptocurrencies under EU financial law*.
- Hayes, A.S. (2016). *Cryptocurrency value formation: An empirical study leading to a cost of production model for valuing bitcoin*. Telematics and Informatics.
- MacDonell, A. (2014). *Popping the bitcoin bubble: An application of log-periodic power law modeling to digital currency*. University of Notre Dame Working Paper.

- Pollock, D. (2018). *G20 and cryptocurrencies: Baby steps towards regulatory recommendations*. Retrieved from <https://cointelegraph.com/news/g20-and-cryptocurrencies-baby-steps-towards-regulatory-recommendations>
- Regulation of Cryptocurrency in Selected Jurisdictions. (2018). *The law library of congress*. Global Legal Research Center
- Urquhart, A. (2016). The inefficiency of bitcoin. *Economics Letters*, 148(1), 80–82.
- Valente, P. (2018). Bitcoin and virtual currencies are real: Are regulators still virtual? *Intertax*, 46(6-7), 541-549.
- Vandezande, N. (2018). *Virtual currencies: A legal framework*. Antwerp, Intersentia.
- Zetzsche, D., Buckley, R.P., Arner, D.W., & Föhr, L. (2017). *The ICO gold rush: It's a scam, it's a bubble, it's a super challenge for regulators*. Retrieved from <https://ssrn.com/abstract=3072298>