

# Legal Regime of Cryptocurrencies

Submitted: 4 November 2022

Reviewed: 8 June 2023

Revised: 10 July 2023

Accepted: 13 July 2023

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Article submitted to peer blind review

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DOI: <https://doi.org/10.26512/lstr.v16i1.45592>

## Abstract

**[Purpose]** The purpose of this research is to examine the legislative approaches to regulating cryptocurrencies in different states and regions. The aim is to analyze the legal framework of cryptocurrencies in the Kazakh and international economy and determine the modern scientific approaches used in their functioning.

**[Methodology/Approach/Design]** The study employs a combination of theoretical and empirical methods, including analysis, synthesis, historical analysis, comparative analysis, formal-logical methods, and hermeneutics. A comparative analysis is conducted to assess the different regulatory approaches of states towards cryptocurrencies and evaluate the justification for terms such as "digital currency" and "digital asset."

**[Findings]** The findings of this study underscore the necessity for further amendments to the legislation in Kazakhstan, specifically addressing overlooked details and features concerning the financial and legal aspects of cryptocurrencies. Key decisions need to be made regarding their acceptance for public payments, tax considerations, declaration requirements, and recognition as private money. The study emphasizes the significance of adopting a comprehensive and forward-thinking legal approach that supports the full legalization of cryptocurrencies while establishing a robust regulatory framework. This approach would effectively safeguard the interests of individuals and entities, address concerns, and promote a balanced and secure environment.

**Keywords:** Cryptocurrency. Digital Currency. Electronic Money. Property. Financial Instrument. Virtual Asset. Private Money.

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## INTRODUCTION

The cryptocurrency first appeared in 2009 as an alternative means of payment to state money and a means of circulation of goods (works, services), possessing a number of distinctive properties that were recognised by supporters of the cryptocurrency as its undoubted advantages. Considering this new economic phenomenon abstractly, regardless of its legal regime under the legislation of any state, cryptocurrency is very similar to private (commodity) money that once served as a commodity exchange. Cryptocurrency is an innovative technical solution with a claim to create competition for the money of the state and its monetary monopoly, it is an expression of the desire of a part of humanity for freedom and independence from the state in everything, including money (TOVMA, 2013). Cryptocurrencies highlight society's growing distrust of state money and monetary policy, signalling the need for the state, law, and politics to adapt to new societal and economic phenomena.

In the first stages of its development, cryptocurrency (also referred to as "digital currency") was perceived doubtfully, and a successful future was not predicted for it. Overcoming initial scepticism surrounding cryptocurrency required significant efforts. The digital nature of cryptocurrency, absence of government backing, and reliance on unfamiliar technology like blockchain questioned using such technology. Security concerns, limited infrastructure, and regulatory uncertainties further hindered widespread adoption. People found it challenging to trust and use a currency that existed solely in the digital realm without a centralized authority. Today, cryptocurrency plays such a big role in the global economy that to preserve its monetary monopoly and prevent the global decentralisation of monetary systems, states are introducing state digital money into circulation (KERIMKHULLE et al., 2023). Many conservative representatives of the modern scientific community adhere to the position that cryptocurrency should either be ignored or banned. Such a position is mainly explained not by the fact that cryptocurrency does not perform the functions of money and its legal regulation is useless or would damage the economy of the state, but by the real fear that it may become serious competition for state money (SILAGADZE, 2022). In this regard, countries around the world are introducing national digital currencies that would not allow breaking the state monetary monopoly and ousting public money from civil circulation. Venezuela became the first country to launch its own state cryptocurrency "petro", secured, according to the President of this country, with reserves of gold, oil, gasoline, and diamonds (DOLGIYEVA, 2018; EGOROVA and EFIMOVA, 2019).

In 2020, China began testing the digital yuan (FOMIN, 2020b), and in the Russia, a full-scale study is being conducted on the future of the digital form

of the rouble, possible technical solutions, the legal regime of the digital rouble, and its place in the system of objects of civil and financial law (DIGITAL RUBLE..., 2020). In 2021, the Republic of Kazakhstan also seriously considered the need to introduce the digital form of the Kazakhstani tenge into circulation. This initiative was marked by the publication by the National Bank of the Republic of Kazakhstan of the Digital tenge (pilot project) (2021). The publication of this Report sharply raised such questions as the legal regime of non-cash money, their difference from electronic money, the place they occupy in the monetary system of the state, their difference from cryptocurrencies, and whether they would make it a worthy competition.

The purpose of this research is to explore the diverse legislative approaches adopted by individual states and regions regarding the legal framework of cryptocurrencies, as well as to analyze contemporary scientific perspectives on the legal nature and functioning of cryptocurrencies within the Kazakh and international economies. The study aims to examine the regulations governing the monetary system, civil law, and financial law, investigate the legal definition of "cryptocurrency," and analyze the current legislation of Kazakhstan and Russia concerning the regulation and circulation of cryptocurrencies (digital currency, digital assets). The research seeks to investigate the implications of cryptocurrencies as alternative payment and circulation methods, including their potential to disrupt state monetary monopolies. It aims to analyze the changing societal and economic landscape surrounding cryptocurrencies and explore the implications for state governance, law, and politics in adapting to these emerging phenomena.

The following tasks are set to achieve such goal:

- The examination of regulations of various states on the legal foundations of the monetary system, the system of objects of civil law and financial law;
- The investigation of scientific approaches to the legal definition of the term "cryptocurrency" and the establishment of its legal nature;
- The analysis of the current legislation of the Republic of Kazakhstan and the Russia for legal regulation issues and circulation of cryptocurrencies (digital currency, digital assets).

## MATERIALS AND METHODS

A legal analysis was conducted on the legal literature and regulations considering the circulation of cryptocurrencies as an object of civil and financial legal relations and the legal foundations of the monetary system at the present stage of economic and social development. The civil and tax legislation of other

countries have been subjected to legal analysis, since, as a rule, these types of legislation serve as a starting point for determining the legal regime of cryptocurrencies. As the analysis showed, some states do not establish a legal regime for cryptocurrencies within the framework of civil legislation. Instead, the legal regime of cryptocurrencies for tax purposes is determined and established (whether it would be recognised as property, whether income from the sale of cryptocurrencies with an increase in value is subject to taxation, whether tax benefits would be established for owners of cryptocurrencies when conducting transactions with it, etc.). When using the comparative method, a comparative analysis of data obtained from legal sources was conducted (legislation of foreign countries and legal scientific literature). The approaches of legislators and representatives of the scientific community of countries with similar legal systems and countries whose legal systems differ were compared. For example, it was found that the countries of the Anglo-Saxon legal system, unlike countries with the Romano-German legal system, are not characterised by the establishment of norms that regulate in detail the legal regime of cryptocurrencies. Therewith, the active role of courts and judicial precedent allows identifying the legal regime of such an object from judicial acts that constitute a uniform approach to protecting the rights and legitimate interests of holders of digital currencies.

Through the use of the historical method, it was established how, at the early stages of the emergence and circulation of cryptocurrencies, these legal relations were regulated by the legislation of certain states. As the study showed, the approaches of government agencies in relation to cryptocurrency (digital currencies) varied over time and the practice of using a new object in civil legal relations. For example, initially in the Russia, some state bodies and officials expressed concerns about the legalisation of the circulation of cryptocurrencies, and working groups developed draft laws banning the circulation of cryptocurrencies up to the application of administrative and criminal liability measures for conducting any transactions with it. However, at present, federal law has been adopted and put into effect in the Russia, allowing the circulation of digital currencies (cryptocurrencies), although with known restrictions. The formal-logical method, also used in this study, allowed identifying the patterns of development of the current legislation on digitalisation, the gaps in it, to present and formulate possible legal consequences of the chosen approach of legal regulation of cryptocurrencies.

Admittedly, one of the most substantial in the framework of this study was the method of hermeneutics. As is known, hermeneutics is the science of interpreting texts. When conducting a legal and comparative analysis of scientific texts and legal provisions of foreign legislative acts, the true meaning

laid down in these legal provisions was established, based on the literal meaning of individual terms and the systematic interpretation of individual legislative institutions. For example, using definition dictionary, the general scientific meaning of the terms "cashless", "electronic" and "digital" was investigated, and in the course of a comprehensive legal interpretation of the texts of laws, the legal nature of each of these concepts was determined, which subsequently enabled determining their relationship. In addition, an examination of the legal meaning of "digital asset" and "digital currency", the expediency of using these terms in current legislation, and the correctness and appropriateness of their use was conducted. Some representatives of legal science state that the relevance of investigating the field of the monetary system reached its limits. Therewith, the systematic method of interpreting the texts of legislation allowed confirming that both in legal science and in the current legislation there is no generic definition of "money", "objects of legal relations", and special concepts of "non-cash money", "electronic money", and "cryptocurrency". Therefore, it is also necessary to define the legal essence of money in general, non-cash money in particular, and their place in the system of objects of legal relations to determine the legal regime and the legal nature of cryptocurrency (digital currency). The examination and presentation of the above problems should be the subject of independent studies.

## RESULTS AND DISCUSSION

### **Impact of Cryptocurrencies on State, Law, and Environmental Considerations**

Politicians, government officials, businessmen, economists, financiers, lawyers, and representatives of the scientific community, including civil servants and representatives of financial law, express professional opinions about the possible impact of cryptocurrencies on the state and law. Thus, there are concerns in the legal literature that the recognition of cryptocurrencies as a legal means of payment may undermine the money turnover in the country and cause the disappearance of the monopoly of central banks (EGOROVA, 2019). Anatoly Aksakov, head of the State Duma Committee on the Financial Market of the Russia, indicates that "the recognition of digital coins as an official means of payment on a par with the rouble means the destruction of the financial system that ensures the stable functioning of the entire economy" (KORNEYEV, 2020).

The state's standpoint is firmly established as maintaining monetary monopoly is a critical aspect of state sovereignty. With central banks controlling monetary policy and determining people's living conditions, the state is unwilling to relinquish its essential instrument of existence – public money. In

some cases, state money is declared the only legal tender, which provides the state as the issuer with the possibility of forced use of its product (money) by all of its subjects (MISHCHENKO and MISHCHENKO, 2015). Cryptocurrency is often perceived as a protest of society or its individual strata against omnipotence, and sometimes as the arbitrariness of the state rather than an alternative and healthy competition for state money. Moreover, as is well known, healthy competition stimulates the economy while a monopoly position commonly leads to the dominance of power and an imbalance of interests of the parties (KLIMENKO and MASHCHENKO, 2022).

Along with issues related to the legal regulation of the turnover of cryptocurrencies, its mining causes substantial inconvenience to the population associated with colossal costs for electric energy. On this basis, some states have already sounded the alarm. Indeed, in a number of countries, mining farms and the amount of electrical energy that they consume lead to power outages, as a result of which not only the household needs of the population cannot be met, but also special equipment fails. In particular, a number of illegal mining farms were identified on the territory of Abkhazia, one of which involved 300, and the other even 1900 mining machines. High-power transformers were installed especially for these crypto farms. The head of Abkhazia stressed that "because of such a load on the power grid, a computed tomography scanner cannot work, children and the elderly are freezing, elevators also do not work" (LAYOFFS CONTINUE IN..., 2021). There is a similar situation in Iran: due to the movement of a large number of crypto farms into the country, power outages have begun everywhere (SAVELYEVA, 2021). Bill Gates did not stand aside and commented on the current situation in the world. In his opinion, the high consumption of electric energy by bitcoin mining activities entails harm to nature (KORNEYEV, 2020).

In the pursuit of environmental preservation and sustainable living, the environmental impact of cryptocurrency mining becomes a significant concern. These and many other factors affect both the public assessment of the cryptocurrency and the activities related to its extraction and the policy pursued by states in relation to it, which, in turn, constitutes the legal position of states, reflected in the current domestic and regional legislation.

In this regard, the authors have considered several options for solving this problem. It is necessary to take energy efficiency measures. Implementing and promoting energy-efficient mining technologies and practices can help reduce the electricity consumption of cryptocurrency mining. This could involve optimizing hardware designs, improving cooling systems, and developing more efficient algorithms. Governments should introduce regulations to ensure responsible and sustainable cryptocurrency mining practices. This may involve

setting limits on energy consumption, imposing environmental impact assessments, and requiring miners to obtain licenses or adhere to specific environmental standards. Besides, raising awareness among cryptocurrency miners and the general public about the environmental impact of mining operations can lead to more responsible practices. Educating miners about energy-efficient strategies and promoting sustainable mining practices can help mitigate the environmental consequences.

States take different positions regarding the legal regime of cryptocurrencies. Regarding the legal regime of cryptocurrencies, states can be classified into those ignoring, prohibiting, regulating, encouraging, or undecided about cryptocurrency, each with their own approach to its development and regulation. It is rightly noted that cryptocurrency (as, perhaps, a new cryptographic form of money) does not fit into the modern understanding of the monetary system (PANDYA ET AL., 2019), which actualises the question of determining the legal nature of cryptocurrency and its consolidation at the legislative level.

### **Comparative Analysis of Cryptocurrency Legal Regimes**

The definition of the legal regime of cryptocurrencies and, accordingly, the choice of approaches to the legislative regulation of its issuance and circulation seem problematic, since, primarily, it is necessary to understand and formulate in legal language the technical aspects of the functioning of various types of cryptocurrencies. Moreover, it must be done in such a way that the cryptocurrency harmoniously enters the current system of objects of law, without destroying it and harming the economic interests of society and the state. States are conducting full-scale studies of the legal nature of cryptocurrencies both at the national and international levels to develop common legal approaches to regulating this phenomenon, which can give a new impetus to the development of digital technologies in international trade and international settlements. During the 10th BRICS Summit, the association of five major emerging economies, in Johannesburg on July 25-27, 2018, the member banks of Brazil, Russia, India, China, and South Africa signed an agreement to collaborate on developing the digital economy and researching blockchain technology (DULATOVA AND ABD RAZAK, 2020). International studies were also conducted within the European Union (EU), as a result of which, in September 2020, the European Commission presented the rules for regulating the cryptocurrency market (FOMIN, 2020a).

India is one of those countries where the government intends to prohibit, under penalty of confinement for 10 years, the extraction, creation, storage, sale, transfer, sale, issue, or other actions with cryptocurrency. In 2019, the

Government of India submitted to the legislator a bill banning cryptocurrencies and regulating the official digital currency, which defined cryptocurrencies as "digital or virtual currency". The government of India is confident that private cryptocurrencies should be banned, they do not perform all monetary functions, and, consequently, they cannot replace public money (DULATOVA AND ABD RAZAK, 2020). However, in the draft law, the government provides for the possibility of issuing and legal circulation of the state's digital currency. The purpose of this law, as its name implies, is not only to establish a complete legislative ban on the issuance, circulation, and any other actions with private cryptocurrency but also to regulate the circulation of the state's digital currency. Presumably, India, like a number of other countries, is considering the possibility of issuing a national currency in digital form. It is assumed that there is a need to establish a complete ban on private cryptocurrencies that are a clear competitor to public money to do this (FOMIN, 2020c).

It is also noted that, according to the lawyers of India, the cryptocurrency is not currently a legal tender in India and in the absence of relevant legislative acts is also not a payment system, and the most acceptable option would be to secure the status of a "commodity" for the cryptocurrency. Indian researchers also pay attention to two approaches to determining the legal regime of cryptocurrencies: cryptocurrency as a commodity and cryptocurrency as a service (DULATOVA and ABD RAZAK, 2020). At present, there is no legal regulation of the issue and circulation of cryptocurrencies in India, there is also no regulatory consolidation of cryptocurrencies as one of the types of objects of civil rights. This study suggests that the non-recognition of cryptocurrencies as legal tender in India allowed attributing them to the objects of the financial law of this state. The Brazilian government expresses concern about the emergence and spread of cryptocurrencies, however, concerns are not caused by the possibility of destabilising the country's monetary system, but by the fact that cryptocurrency can be used as a means of money laundering and terrorist financing. This concern can be countered with the following argument: "the inability to trace the source of money makes cash the main tool for laundering money obtained by criminal means" (ARTYOMOV et al., 2016). However, cash is still commonly used and in a number of countries, it constitutes a great proportion of the entire money supply in circulation.

According to Brazilian law, cryptocurrency is not a legal means of payment, and, according to Brazilian Civil Law, it is defined as "a resource stored on a device or in an electronic system." It is assumed that cryptocurrency is movable property, respectively, it can be involved in various transactions, except for taxes and other mandatory payments to the budget. The Brazilian government does not recognise cryptocurrency as a financial instrument. In this



regard, direct investments in cryptocurrency are prohibited in the country. The president of the Central Bank of Brazil once referred to cryptocurrency as a typical soap bubble or pyramid scheme (DULATOVA and ABD RAZAK, 2020). Therewith, it is also noted that virtual currencies can be recognised as securities in cases when dividends are paid to investors on these virtual currencies or they are granted the right to take part in the management of the company through voting (CVETKOVA, 2018). The judicial practice of Brazil demonstrates the liberal approach of judges to cryptocurrency and the protection of participants in activities related to its turnover. One of the court's decisions notes that in the absence of legal instruments for regulating any object, it (the object) has not yet become illegal (DULATOVA and ABD RAZAK, 2020). For tax purposes, cryptocurrency is recognised as a financial asset (Panova et al., 2019).

According to the latest data, the Chinese authorities have banned the mining of cryptocurrencies on their territory and the implementation of any transactions using cryptocurrencies. The People's Bank of China has officially declared that any business activity with virtual currency is illegal financial activity (CHINA DECLARES ALL..., 2021). Thus, from the standpoint of the above classification of states, the People's Republic of China is among the countries that have banned the circulation of cryptocurrencies on their territory. Hong Kong is one of those countries that deliberately and intentionally do not create special legal provisions regulating cryptocurrency and any transactions made with it. Nevertheless, Hong Kong has criminal liability for fraudulent transactions (CVETKOVA, 2018), which can be conducted, in particular, through cryptocurrencies.

Since 2017, cryptocurrency has been officially recognised as legal tender in Japan (BITCOIN IS RECOGNIZED..., 2017). Under Japan's Payment Services Act, virtual currency is defined as proprietary value that can be used to pay for goods, services, or borrowed items, and can be exchanged with an unspecified person using an electronic data processing system (BLOCKCHAIN & CRYPTOCURRENCY LAWS..., 2021). Thus, cryptocurrency in Japan is recognised as a means of circulation and a legal means of payment, which can be used on a par with the national currency.

In Canada, cryptocurrency can be used to pay for goods, works, or services under the rules of barter transactions (barter agreement). There, cryptocurrency is defined as a "digital analogue of value", which is not a legal tender. A cryptocurrency is a digital asset (crypto asset) that can be used by the parties to a transaction as a means of exchanging goods or services. For tax purposes, cryptocurrency is recognised as a commodity. Accordingly, any income from cryptocurrency transactions is regarded as business income or

capital gain, depending on the circumstances. The definition of business losses and capital losses in connection with the implementation of operations with cryptocurrency is approached similarly. Moreover, each type of cryptocurrency located on the electronic wallet of its owner is recognised as an independent digital asset and is subject to independent evaluation (GUIDE FOR CRYPTOCURRENCY..., 2021). In Canada, activities related to the exchange of cryptocurrencies are subject to registration with the Financial Transactions and Reports Analysis Centre of Canada, and relevant entities are required to comply with the requirements of legislation on countering the legalisation of proceeds from crime. Without passing the appropriate registration procedure, second-tier banks are not entitled to open bank accounts for these persons.

The Reserve Bank of Australia posted a report on the nature and legal regime of cryptocurrencies on its official website, which reflects a comparative analysis of cryptocurrencies and conventional money. As a result, the Reserve Bank of Australia concluded that cryptocurrency is not real money since:

- Cryptocurrency can act as a means of payment and some companies accept cryptocurrency to pay for goods and services. However, this is not the most common means of payment (money, according to the Reserve Bank of Australia, usually takes the form of a national currency and is widely used as a means of payment);
- Cryptocurrency is not effective as a means of saving, since there are substantial fluctuations in its value;
- Cryptocurrency does not perform the function of a measure of value, since in Australia the value of goods (works, services) is measured in Australian dollars. The Reserve Bank of Australia recognises that entrepreneurs can accept cryptocurrency to pay for goods (works, services), but cryptocurrency is not the main means of measuring prices (DIGITAL CURRENCIES, 2021).

As follows from the position stated by the Reserve Bank of Australia, cryptocurrency is not prohibited in the country, its use is allowed by the government, but it is not recognised as money since it does not perform the economic functions inherent in money. For tax purposes, cryptocurrency in Australia is recognised as an intangible asset (PANOVA et al., 2019).

The legal regulation of electronic money in Ukraine is primarily governed by the Law of Ukraine No. 2074-IX "On virtual assets" (2022). This law provides a framework for virtual assets, including electronic money, and establishes their legal regime based on the principles of intangible benefits and the specific features of their turnover, as defined by the existing civil legislation.

The law defines electronic money as the monetary value stored electronically, including magnetic or computer-based representation, used for making payments. Electronic money is recognized as a legitimate form of payment in Ukraine. Entities intending to issue electronic money in Ukraine are required to obtain a license from the National Bank of Ukraine (NBU). The NBU sets specific criteria and conditions for obtaining and maintaining such licenses, including financial stability, security measures, and compliance with anti-money laundering and counter-terrorism financing regulations. The National Bank of Ukraine (NBU) and other relevant authorities are responsible for supervising and regulating electronic money activities in the country. They monitor compliance with licensing requirements, consumer protection measures, and anti-money laundering regulations. Owners of electronic money are obligated to safeguard the funds received from users. They must maintain sufficient capital reserves to ensure the redemption of electronic money upon request. The law sets transaction limits for electronic money transactions to prevent money laundering and illicit activities. Additionally, electronic money issuers are required to report certain transactions and provide information to the relevant authorities as stipulated by the law. The law encourages interoperability and interchangeability between different electronic money systems to promote competition and ensure users have access to a wide range of payment options (MISHCHENKO et al., 2022). The German Federal Financial Supervisory Authority does not recognise the legal regime of fiat money, electronic money, legal means of payment, foreign currency, foreign banknotes, and coins for a cryptocurrency (digital currency). In accordance with the German Banking Act, cryptocurrency is defined as a unit of value (a measure of value), not called a legal tender, but comparable to a foreign currency. For tax purposes, Bitcoin is recognised as an intangible asset (REGULATION OF CRYPTO..., 2021). The current tax legislation of the Federal Republic of Germany provides for a tax benefit, according to which in the case of owning a cryptocurrency for more than one year and its subsequent sale with an increase in value, the owner of the cryptocurrency is exempt from paying income tax (DE HOON, 2021). The Federal Ministry of Finance of Germany provided an explanation according to which the use of cryptocurrencies as a means of payment is not prohibited and falls under exceptions exempt from value-added tax (GERMANY: FEDERAL MINISTRY..., 2018).

The experience of El Salvador is considered interesting from the standpoint of law and unprecedented. On June 9, 2021, The President of El Salvador announced the adoption of the so-called "Bitcoin Law", according to which Bitcoin becomes legal tender in El Salvador. Today, El Salvador is the only country in the world that has decided on such measures. Now Bitcoin in the

territory of this state is required to be accepted by everyone who sells goods (works, services). It is possible to pay taxes with Bitcoins (it becomes an object of financial law), and the exchange of Bitcoins is not subject to capital gains tax. Experts express concerns about such a decision since Bitcoin continues to maintain serious volatility, which can negatively affect the country's economy and ordinary citizens (BITCOIN: EL SALVADOR..., 2021).

In Bulgaria, cryptocurrency is considered a financial instrument. In the Netherlands, cryptocurrency is recognised as electronic money. In Switzerland, cryptocurrency is recognised as legal tender (CHORNOUS et al., 2019). In accordance with the civil legislation of Argentina, cryptocurrency is not recognised as a national currency, but it can be considered money, a commodity, or a thing (PANOVA et al., 2019). In South Africa and Nigeria, cryptocurrency is not recognised as legal tender, its definition has not yet been fixed at the legislative level (HAMUKUAYA, 2021). However, for tax purposes, cryptocurrency income must be included in taxable income (UKWUEZE, 2021). According to Directive (EU) 2018/843, "virtual currencies" are digital values that are not issued or provided by a central bank or government agency and lack a legal currency or money status, but can be used as a means of exchange and transferred, stored, or sold electronically.

Madhura Phadtare (2022) states that Saudi Arabia is still extremely apprehensive when it comes to cryptocurrencies. There are no central authorities that keep cryptocurrencies in check-leading to extreme volatility in value on their part. Due to this, the Saudi Arabian government refuses to accept it as legal tender. The government has placed an outright ban on banks processing any transactions involving cryptocurrencies. It has also declared cryptocurrency trading illegal in the country. The government has not made any penalties clear for people choosing to still dabble in this trade. The Saudi government has not given permission to major exchanges like Coinbase and Binance to operate in the country yet. However, there are exchanges specific to the Middle East like BitOasis that provide Saudi Citizens with the means to trade in cryptocurrencies. Acting on its statement, the government of Saudi Arabia declared that they would not provide any provisions or protection for citizens dealing in virtual currency. All the risks will be borne exclusively by the cryptocurrency platform users. Hence, though the government has declared bitcoin to be illegal it has more of a quasi-legal status in the country. With Saudi Arabia's neighbors seeking to bring the world of digital asset trade under the control of a regulatory framework, it's possible that the Kingdom may follow suit in the coming years. The country's youth population maintain a keen interest in all things digital and will likely welcome the introduction of regulations that legitimise the crypto and digital asset space.

According to Akanksha Singh and Sharan Chawla (2019), on a global level, on the one hand, some countries focused on which category Bitcoin should fall under. For instance, Canada came to the conclusion that, in the absence of a legal tender characteristic, Bitcoin fails the currency test and should, therefore, be considered as a commodity for tax purposes. More specifically, the Canadian Revenue Agency confirmed in January 2014 that when one uses Bitcoin to purchase goods or services, the “transactions involving bitcoins should be reported as would any other barter transaction.” Lastly, Germany and the U.K. have decided to adapt their tax system based on what would be economically viable. Indeed, despite the fact that Bitcoin is not a currency because it is denationalized, Germany chose to recognize Bitcoin as an equivalent to private money, and, therefore, gave it the tax regulation of a currency. Thus, cryptocurrencies may be considered as a medium of exchange, a negotiable instrument, a property or a subject of the contract. This may depend upon the nature of transaction and the power of legislation to tax such transaction. Some of the taxes that may attract cryptocurrencies are property tax, inheritance tax, transaction tax, service tax, value-added tax (VAT), gift tax, wealth tax, capital gain tax, income tax and many more. The authors concluded that cryptocurrencies like Bitcoin was created with the intention to offer an alternative to traditional system of payments by depriving it from governmental supervision, which often attracts conflicts.

In figure 1 we can see global crypto ranking, according to which Germany, the USA, Singapore, Australia and Switzerland make up top 5 countries that have cryptocurrency-friendly economics.

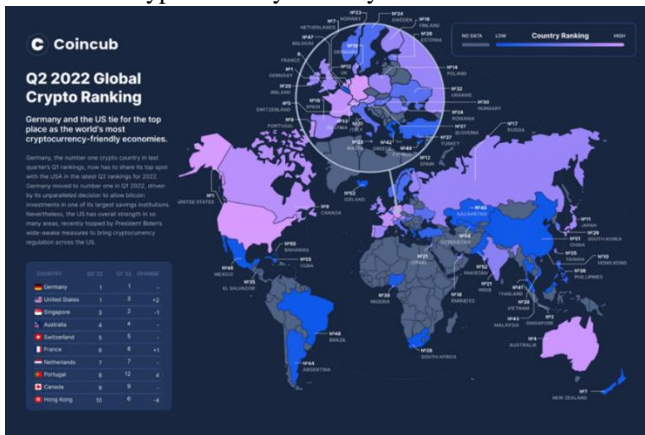


Figure 1 – Global Crypto Ranking<sup>1</sup>

<sup>1</sup> Source: Q2 2022 Global Crypto Ranking (2022).

The comparative legal analysis conducted within the framework of this study allows drawing the following conclusion: only a small number of countries today control cryptocurrency through the adoption of special regulations or by amending the current civil/tax legislation. In some cases, the legal regime of cryptocurrencies is established not in legislative acts, but in acts of central banks of states, less often – the legal regime of cryptocurrencies is clarified from official letters and statements of central banks and authorised state bodies. The prevailing majority of states have taken a wait-and-see attitude, they are constantly monitoring the decisions taken in this area by other countries and various kinds of consequences following these decisions. Some countries explicitly prohibit the issuance and circulation of cryptocurrencies, guided by the arguments given earlier. Cryptocurrency can be assigned two or more legal regimes simultaneously. To some Russian representatives of financial and legal science, this approach seems justified since cryptocurrency can perform various functions (be money, commodity, investment, investment object, financial instrument, legal tender, etc.). Depending on the function performed in a particular situation, a specific legal regime should be applied to the cryptocurrency and such regimes, respectively, can and should be different (TSINDELIANI and NIGMATULINA, 2018).

At this stage, it can be assumed that the assignment of many legal regimes to cryptocurrency is conditioned upon the fact that the place of cryptocurrency in the system of objects of civil rights and financial law has not been definitively determined. For the state, it is most important, when allowing the use of cryptocurrencies, to determine its legal regime in tax law, so as not to miss the chance to tax a sufficiently profitable sphere of activity in modern society. Thus, examples occur, when in civil circulation, cryptocurrency is an acceptable, but not mandatory, means of payment in the absence of an agreement between the parties, and for tax purposes, it is an intangible asset, the income from the sale of which is subject to taxation. This study suggests that cryptocurrency (like certain other types of property) can perform various functions depending on the specific situation. However, any object must take its place in the system of objects of rights (financial and civil), have the characteristics of a generic object and therewith, not lose them when performing secondary or side functions. Using the example of the legal position of Germany, this idea could be expressed as follows: cryptocurrency is an intangible asset that, under certain conditions, performs the role of a means of payment.

There is still no consensus among representatives of the scientific community, practising lawyers, and legislators from around the world on the legal regime of cryptocurrency. Only from the above single examples, the

definition of the legal regime of cryptocurrencies is approached from a variety of sides. It is noted that the legal consolidation of the legal regime of cryptocurrencies is complicated by the presence of a wide variety of cryptocurrencies that differ in technical characteristics (RUECKERT, 2019). In the legal literature and legislation of different states, there are such approaches to determining the legal regime of cryptocurrencies as recognising it as money, money surrogate, electronic money, financial instrument, commodity, service, security, property, property law, property (CVETKOVA, 2018), digital asset, digital currency, means of payment, etc. According to a document published in 2008 describing the main characteristics and advantages of the first cryptocurrency – Bitcoin, it is, primarily, an electronic payment system based on cryptography, and not on trust (NAKAMOTO, 2014). As practice has subsequently shown, this system, whether it is monetary or not, is still, similar to the state monetary system, based on the trust of its participants.

Cryptocurrency has a number of characteristic properties (features): the system is based on cryptography, is decentralised, is not provided with real assets, is partially or completely anonymous, it is inherent in the impossibility of cancelling transactions, security, the possibility of limiting the volume of emissions (which avoids or reduces the level of inflation). In the legal literature, there is an opinion that virtual currency (cryptocurrency) has several distinctive features from money, in particular, it is not recognised by most states at the legislative level as money or a legal means of payment, and this, according to some authors, is one of the key features of money. According to the first Bitcoin document, it is a "peer-to-peer electronic monetary system." In other words, the creators of this system assumed that from a technical standpoint, the bitcoin system would be a monetary system, and the cryptocurrency unit itself in circulation would perform fundamental monetary functions. The study arose the question of whether it is possible to call the system within which the creation of cryptocurrency units takes place monetary, and the cryptocurrency unit itself – money.

Disputes persist over the nature of cryptocurrencies and their relationship with money due to the lack of consensus among researchers regarding the definition and criteria of money, including the need for state sanction or fulfillment of basic monetary functions to classify a commodity as money. In some countries, such as Japan and Switzerland, cryptocurrency is recognised as legal tender. Thus, the legislator authorises the use of cryptocurrencies as a means of payment, mandatory for acceptance by all subordinate entities, including the state itself represented by its authorised bodies. This leads to a theoretically and practically substantial conclusion: when the legal regime of legal tender is established for the cryptocurrency, it becomes the object of

financial legal relations. At the present stage, cryptocurrency is accepted by individual entrepreneurs to pay for goods (works, services). For example, bitcoin is accepted for payment by companies such as Wikipedia, Microsoft, Burger King, KFC Canada, Pizza Hut in Venezuela, etc. (BEIGEL, 2021). The Bail Bloc application converts cryptocurrencies into dollars, and the proceeds are then transferred to the Bronx Freedom Foundation (GERSHOWITZ, 2019). On March 29, 2021, it became known that Visa became the first of the major payment systems that began conducting transactions using the United States dollar (USD) Coin stablecoin (HACKETT, 2021). On the one hand, money is an economic category, therefore a commodity becomes money when it performs its basic economic monetary functions. This conclusion, for example, is reached by representatives of financial and legal science in the Russia, who state: "... theoretically, any object performing these functions can be considered money" (TSINDELIANI and NIGMATULINA, 2018).

Supporters of the oppositional standpoint suggest that the main feature characterising a commodity as money is the recognition by the state at the legislative level of this commodity as money (legal tender) (KARAGUSOV, 2002; ARTYOMOV et al., 2012; KUCHEROV, 2012). In other words, only from the moment when the state establishes in law that, for example, Bitcoin is money, it becomes money. Notably, sometimes it is allowed to mix the concepts of "money" and "legal tender". For example, in the Republic of Kazakhstan, in the absence of a definition of "money" at the legislative level, this concept is replaced by another by the legislator – "legal tender". Thus, it is enough to establish that the cryptocurrency is legal tender, as it would automatically become money, according to the concept that can be traced in the current legislation of the Republic of Kazakhstan. It is necessary to give a legal assessment of such a phenomenon as "physical" Bitcoins. Since 2011, for three years, Casascius Bitcoin Mint has been issuing physical Bitcoin coins of various denominations, the largest of which was 1000 Bitcoins in the form of a gold coin. In 2016, the Japanese company Raimu Inc. also announced the release of physical Bitcoin coins. Physical Bitcoins are portable offline wallets. "You need to remove the protective holographic film from the coin to gain access to the secret key". One side of the coin features a hologram with a QR code beneath it. It takes some effort to peel. Once peeled, the QR code comes out. Once you have the QR code, you take a blockchain app and import your account address, scan the code, and the BTC arrives in your account. Thus, as long as the holographic film remains untouchable, the owner of the coin can be sure of the safety of Bitcoins on it. Coins with an intact holographic key are used for offline payments. In this connection, the question arises about the legal nature of such coins: are they money, financial instruments, or carriers of digital information?



In particular, the United States of America Financial Crimes Enforcement Agency filed charges against the company Casascius Bitcoin Mint. Activities for the sale and transfer of coins were classified as "illegal money transfers" and the provision of "financial services". Thus, physical Bitcoins were indirectly recognised by the financial regulator as money and financial services. The true value is not in coins made of base and precious metals, but in secret codes that provide access to cryptocurrency. The desired object when making a transaction would be the cryptocurrency itself. Obtaining it is the purpose of the parties to the transaction. Recognising the existence of private money in the economy, cryptocurrency, in particular, Bitcoin, can be such with a high degree of probability. A physical Bitcoin (coin) is a carrier of information or an object certifying the right of the owner of the coin to the units of cryptocurrency located on the wallet, the secret code of which is imprinted on the coin. Therewith, cryptocurrency units are always on an electronic wallet that exists within a certain information system. Even though physical coins move in space (between cities and countries), the cryptocurrency is invariably located in one place – an electronic wallet and its physical movement across territorial borders does not occur (PATASHKOVA et al., 2021). In this case, there can be no "money transfer" if the cryptocurrency has not been moved from one electronic wallet to another.

Notably, this approach cannot be applied to conventional non-cash money. In the legal literature, the opinion is expressed that money is not cash bank bills (banknotes and coins), but unconditional obligations of the Central Bank, expressed in their form. The study does not represent such an opinion, as the obligations of the Central Bank are not a commodity and not a real object, but only a kind of abstraction, which in reality cannot be valuable and meaningful for society. In turn, a physical Bitcoin is a carrier of real and existing information in the form of a digital code, an object – a cryptocurrency.

### **A Comparative Analysis of Legal Regimes of Cryptocurrency of Russia and Republic of Kazakhstan**

Having analysed the main approaches to determining the legal regime of cryptocurrencies in various states, the study further focuses on a detailed consideration of approaches to this issue in the Republic of Kazakhstan and the Russia. Through the historical method of research, it was established that up to 2020, the Republic of Kazakhstan and the Russia took a wait-and-see attitude towards cryptocurrencies. While the Russia, represented by its authorised bodies and representatives of the Central Bank, publicly expressed proposals on options for regulating cryptocurrencies (positive or negative), the Republic of

Kazakhstan took the position of monitoring the measures taken by its closest neighbours and other states.

Russia. In January 2016, an opinion was expressed about the need to introduce criminal liability for the use of cryptocurrencies, since this system may be a "soap bubble" that the state needs to fight. Further, it was proposed to equate the cryptocurrency with a foreign currency and waive criminal liability for its use. The Note of the Ministry of Finance of the Russia No. (03-04-07/80764 (2018)) was published on the sale of cryptocurrencies by individuals. The Russian Ministry of Finance stated that the Tax Code does not provide a specific taxation procedure for individuals conducting cryptocurrency transactions. The pending legislative resolution, the tax base for income from cryptocurrency transactions can be determined using the norm in paragraph 2 of Article 220 of the Code, considering the excess of total income over documented acquisition expenses (NOTE OF THE..., 2018). Even in the absence of legal provisions regulating the circulation of cryptocurrencies, transactions with it as legal transactions were taxed on income from individuals, and, therefore, were not prohibited.

In August 2020, it became known that for the first time in the Russia, a loan secured by cryptocurrency was issued. Waves tokens were used by the entrepreneur as collateral (THE FIRST LOAN..., 2020). To use cryptocurrency as the subject of a transaction and its provision with cryptocurrency, the latter, from the standpoint of civil law, was recognised as "other property", which, in the absence of legal regulation and direct prohibitions, was allowed by the current civil legislation of the Russia. It is quite evident that within the framework of the legislation of the Russia in force before the adoption of the relevant amendments, nothing prevented "classifying cryptocurrency as objects of civil rights since Article 128 of the Civil Code of the Russia (1994) does not contain an exhaustive list..." (TSINDELIANI AND NIGMATULINA, 2018).

I.I. Kucherov (2018) outlined "four main approaches for national regulators" to determine the legal regime of cryptocurrencies: a complete ban on using cryptocurrencies as legal tender; a combined approach of prohibiting use for legal entities but allowing for individuals; legalizing cryptocurrency sales for national currency; and full legalization for individuals and entities to use cryptocurrencies for payments and transactions. On December 28, 2017, the first draft law on the regulation of cryptocurrencies in the Russia was presented. During the consideration of this bill, discussions were also held in the legal literature regarding the legal nature of the cryptocurrency. A scientific definition of "cryptocurrency" states that it is a digital currency created and controlled through cryptographic methods, ensuring full decentralization without external

administrators influencing transactions (TSINDELIANI and NIGMATULINA, 2018).

The State Duma adopted Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia" (2020). When describing the legal regulation of cryptocurrencies in the Russia, it should be noted that the Russian legislator has chosen the path of adopting an independent regulation establishing the main provisions for the legal governance of cryptocurrencies. The key concept of Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia" (2020) is the concept of "digital currency". The original text of the draft law established the concept of "cryptocurrency", but it was decided to replace it with "digital currency". In accordance with Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of Russia" (2020), a digital currency is electronic data offered and accepted as a non-monetary means of payment and investment, without any obligations to individual owners except for compliance with the rules of the information system.

It follows from this definition that a digital currency (aka cryptocurrency) is a collection of electronic data. This means that a digital currency is information that exists in electronic form. The term digital is equivalent to the term electronic; therefore, the legislator does not establish the difference between digital and electronic form. The question of the ratio of digital, electronic, and non-cash forms is relevant and not fully resolved. Digital means "indicated or expressed in numbers". Electronic – one that is presented in a form that allows it to be transmitted, processed, etc. using electronics, or conducted through a global computer network, publishable, existing in a global computer network. Non-cash – recorded in documents, not involving paying in cash (USHAKOV, 2021). As follows from the above interpretation, digital, electronic, and non-cash are not identical interchangeable terms, not synonyms.

The term "cashless" can be designated as generic in relation to electronic and digital. It is noted in the legal literature that such historical prerequisites as the heavy weight and physical volume of the first coins made it difficult to transport and store them. Such transportation was dangerous because of frequent robberies, and difficulties could also arise in "converting" coins of one state into coins of another. These and some other factors led to the emergence and development of non-cash money circulation in the form of paper records (a merchant made a deal with a certain person (the owner of the money in another city), handed over his coins to him, and set off. The owner of the money sent a letter to the destination city to the keeper about issuing money to the merchant in coins in an amount equal to what he received when making the transaction)

(MIRZOYAN, 2005; MAKALIUK, 2016). Further, it should be understood that the terms "digital", "non-cash", and "electronic" refer to diverse classifications made according to different criteria. The term "non-cash" is special, it applies only to money turnover. It is not correct to name, for example, a database non-cash if it does not exist in cash. Money can be cash (existing in physical form) and non-cash (not existing in physical form). The term non-documentary securities is applied to securities that are not in paper form.

Any electronic data, including non-cash money, is a code that consists of characters. Code symbols may include only numeric characters or other characters (numeric and other characters, or only other characters, such as alphabetic values or characters such as \*, #, \$, etc.). This means that electronic data can exist through a digital code or a non-digital code. At the present stage of the development of the monetary system, non-cash money circulation is conducted by means of electronics (that is, within certain information systems), where non-cash electronic money is issued in digital (or non-digital) codes, everything depends on the specific information system within which non-cash money operates. If it is indicated that a cryptocurrency is a digital currency, it is assumed that it lacks physical existence and its code primarily consists of numbers, although various combinations of symbols can be used by developers to create codes for different cryptocurrencies (e.g., Bitcoin addresses include alphanumeric characters, not just numbers) (PAQUET-CLOUSTON et al., 2019)). In this regard, the term "digital" does not sufficiently reflect the essence of the cryptocurrency and even limits the forms of its existence. Therefore, it does not seem correct to use exclusively this term to refer to cryptocurrencies. In addition, the word "crypto" has the meaning of "secret" or "encoded". In this regard, it is more correct to name cryptocurrency precisely as a coded currency. Only then the chosen encoding method can indicate whether the cryptocurrency is encoded using a digital code or another non-digital code, i.e., whether it is digital or non-digital (encoded using other, non-digital characters).

In the newly introduced concept, the term "currency" is designated as a generic concept. The question of the appropriateness of using this term in the designation of cryptocurrencies and digital currencies was considered. There is no definition of the generic term "currency" in the legislation of the Russia. It is immediately determined through the types included in it and is divided into national and foreign. However, from the legal analysis of these definitions, the following generalising conclusion can be drawn, currency means bank bills in the form of banknotes and coins that are legal tender in the Russia or on the territory of a foreign state, and monetary funds expressed in these figures in bank accounts and bank deposits. This study tends to adhere to an established position regarding the meaning of the term currency and designate it as a

monetary unit, that is, the name of the money of a particular state (USHAKOV, 2021; OZHEGOV, 2021). This statement is true according to the popular opinion that only the state can issue money and that there is no non-state money. Most often, the term "currency" even without the clarifying word "foreign" implies a foreign monetary unit. In English, the term "currency" means not only currency but can also be translated as money, money circulation. Some representatives of legal science consider the terms "money" and "currency" synonymous (ARTYOMOV et al., 2012).

The definition of the digital currency itself explicitly states that it is neither a monetary unit of the Russia nor a monetary unit of a foreign state. From this legal provision and the legal concept adopted and reflected in the legislation of the Russia, it follows that digital currency is not money. It is possible to draw a practically and theoretically substantial conclusion, according to which the use of the term "currency" in the concept under study seems inappropriate and subject to replacement, as incorrect and misleading. Otherwise, a digital currency is nothing but a digital monetary unit or digital money, and then it is necessary to bring the definition of the concept of "cryptocurrency" contained in the law into line with the generic concept of "currency". In addition, in the future, difficulties may arise with the application of currency legislation to cryptocurrencies and digital currencies, defining the concepts of "currency values", and "currency transactions" and regulating currency transactions and the circulation of currency values. With the future introduction of the "digital rouble" as the digital form of the national currency of Russia, the relationship and hierarchy of the concepts of "currency", "cryptocurrency", "digital currency", and "digital rouble" would inevitably arise. The digital rouble would become the national currency in digital form, while the digital currency defined by Federal Law No. 259-FZ is not a monetary unit of Russia or any other state.

From the above definition of "digital currency", it follows that the digital currency in the Russia can perform two functions: payment and investment. Digital currency, according to Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia" (2020), can be offered and (or) accepted as: means of payment, investments. On the one hand, cryptocurrency can be used for settlement operations in the implementation of private law payments in the event that the parties to the transaction agreed on this. Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia" (2020) allows the organisation of the issue, issue, and organisation of the circulation of the so-called digital currency. Citizens (including foreign citizens and stateless persons) and legal entities (residents and non-residents)

have the right to conduct transactions with digital currency, however, restrictions are set in this part.

Thus, it follows from the definition of a digital currency that its main function is payment. As the Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia" (2020) explicitly states, a digital currency can be offered and accepted as a means of payment, this is its main purpose, at least within the framework of the federal law put into effect. Meanwhile, further in its legal provisions, this law prohibits the use of digital currency as a counter-provision to legal entities and individuals - residents of the Russia, since it would mean paying for goods (work, services) in digital currency. In this regard, it is necessary to determine why a digital currency was allowed to circulate, the main purpose of which is a payment function if a restriction was immediately established for residents to use it as a means of payment. The logic of the legislator is not entirely clear. The federal law appears to be formal and demonstrative: cryptocurrency is not prohibited and even regulated, but residents of the Russia are still not able to fully use it for its intended purpose. They can pay with digital currency for goods (works, services) of non-residents, but they are deprived of the opportunity to receive it in payment for their goods (works, services). The study suggests that such an approach restricts the civil right of everyone to own, use, and dispose of their property at their discretion.

On the other hand, a cryptocurrency can represent an investment, that is, most likely, other property invested in objects of entrepreneurial and other activities to make a profit and achieve a positive social effect. The term "investments" is special in relation to investment activities. Investment is not an independent and self-sufficient concept, it is in any case property, an object of civil rights. According to Article 1 of Federal Law No. 39-FZ "On investment activities in the Russia carried out in the form of capital investments" (2005), investments are cash, securities, other property, including property rights, other rights having monetary value, invested in the objects of entrepreneurial and (or) other activities to make a profit and (or) achieve another beneficial effect. Since digital currency is not money, securities, or rights, it is most appropriate to attribute it in this case to other property (property rights or digital rights under Article 128 Civil Code of the Russia (1994)). Therefore, indirectly, the digital currency in Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia" (2020) is defined as other property that can be used as a means of payment and investment. Among other essential features that characterise, according to the Russian legislator, the digital currency, its decentralisation and insecurity are established.

Firstly, there is no single issuing and controlling centre in the information system within which the digital currency exists and functions. The management of the digital currency circulation system is conducted by all its participants, which characterises and distinguishes the digital currency system from the centralised state monetary system. Secondly, the participants of the information system do not provide digital currency with anything, which makes it unsecured by real assets but secured by the trust of the system participants themselves to it. In a rapidly changing economy and asset prices, "faith" increases in its value, indicating potential long-term development prospects for systems based on participant trust, to which it is simply disadvantageous to destroy one's own system and universal faith in it. An example of a prosperous and long-term existence of faith-based organisations is religious associations.

The legal regime. Digital currency is not a monetary unit of the Russia, a monetary unit of a foreign state, an international monetary, or a settlement unit, this is directly established in Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia" (2020). In the Russia, the introduction and issue of money other than the rouble are not allowed, respectively, the prospect of cryptocurrency becoming money in the Russia, from the standpoint of the prohibitive norms of Russian legislation, is not yet foreseen. The rouble is a legal tender and the only legal means of cash payment. The list of legal means of non-cash payment is not exhaustive. Potentially, any non-cash aggregate can be a legal tender, including digital currency. For example, if a digital currency as another property is authorised to be accepted for tax payments in the Tax Code of the Russia, it would become a legal tender used for making public legal payments. The impossibility of recognising the legal regime of money for a digital currency does not exclude the possibility of its use as a legal means of payment.

It is important to make the following remark: the position can be traced from the Constitution of the Russia (1993), according to which the state recognises the potential availability of other money (private money), but their introduction and issue are not allowed on the territory of the Russia. For the legality of the introduction, issue, and circulation of any product as money on the territory of the Russia, it is necessary for this product to be legally sanctioned by the state as money. As it was noted earlier, from the standpoint of investment legislation, digital currency is another property. The Civil Code of the Russia (1994) does not attribute cryptocurrency or digital currency a separate place in the system of objects of civil rights as an independent object. However, the composition of other property contained in Article 128 of the Civil Code of the Russia (1994), including property rights (non-cash funds, non-documentary securities, and digital rights), allows indirectly recognising digital currency as a

kind of other property. In Federal Law No. 115-FZ "On counteracting the legalization (laundering) of proceeds from crime and the financing of terrorism" (2016), Federal Law No. 127-FZ "On Insolvency (Bankruptcy)" (2011), Federal Law No. 229-FZ "On Enforcement Proceedings" (2016), Federal Law No. 273-FZ "On Combating Corruption" (2014), digital currency is recognised as property.

Under Federal Law No. 79-FZ "On the prohibition of certain categories of persons to open and have accounts (deposits) in foreign banks and use foreign financial instruments" (2011), digital currency is considered a foreign financial instrument, which can be the form of a security or contract. In Russia, with the enactment of Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia" (2020), there is a debate over the legal status of cryptocurrencies: they are considered property for barter transactions with limitations for residents, financial instruments (securities), and not recognized as a means of payment in relations with residents. On 01.12.2020, Draft Law No. 1065710-7 "On Amendments to Parts One and Two of the Tax Code of the Russia" (2020) was submitted to the State Duma for consideration. According to the draft law, it is proposed to recognise digital currency as property for tax purposes. It is proposed to require residents of Russia to report to tax authorities on digital currency ownership, transactions, and balances if the annual amount exceeds 600 thousand RUB (8187 USD as of 06/04/2021). In other words, if a natural or legal person who is a resident of the Russia receives or sells cryptocurrency with a total value above the specified limit during a calendar year, such a person is obliged to report this to the tax authority and submit a report on the relevant transactions. The tax authority, when establishing signs indicating a possible violation of tax legislation in this part, has the right to demand from the bank an account statement of an individual for expenses/income related to transactions with digital currency. It is also proposed to establish tax liability for failure to submit relevant reports or reporting containing false information about transactions with digital currency, and for non-payment or incomplete payment of tax amounts as a result of non-inclusion in the tax base of profits (income) from transactions that were settled using digital currency.

It follows from the analysed material that today the legislation of the Russia allows for a more complete and freer implementation of the functions of the cryptocurrency, in comparison with the legislation of the Republic of Kazakhstan. With certain restrictions, cryptocurrency can be used as a means of payment on the territory of the Russia and can also be freely used in any transactions as property.



Republic of Kazakhstan. The Republic of Kazakhstan, unlike the Russia, has chosen a diametrically opposite way of regulating cryptocurrencies. The Republic of Kazakhstan adopted Law of the Republic of Kazakhstan No. 347-VI "On amendments and additions to certain legislative acts of the Republic of Kazakhstan on the regulation of digital technologies" (2020). In the Republic of Kazakhstan, it was decided not to adopt an independent regulation that would establish provisions for the issuance and circulation of cryptocurrencies. Instead, the legislator amended the existing regulations, correcting the current legislation of the Republic of Kazakhstan toward positive regulation of cryptocurrency.

Law of the Republic of Kazakhstan No. 418-V "On Informatization" (2015) was supplemented with concepts such as blockchain, distributed data platform, digital asset, digital mining, and digital token. Notably, the Russian legislator managed with a single concept that abstractly covered all or most of the cryptocurrencies and did not use an array of technical terms in legal provisions, while the Kazakh legislator made efforts to reflect in the Law of the Republic of Kazakhstan No. 418-V "On Informatization" (2015) a maximum of obscure technical terms. This is one of the shortcomings of the legislation of the Republic of Kazakhstan. An attempt to regulate in detail the phenomena that are insufficiently established in objective reality through the use of technical terms that have only recently entered into circulation threatens to decrease the relevance of the changes made due to the improvement of new technological phenomena. For example, the Law of the Republic of Kazakhstan No. 418-V "On Informatization" (2015) enshrines the concept of "digital mining". At the present stage, there are about 7800 cryptocurrencies (SEPHTON, 2021), their systems are arranged in different ways, and various methods of mining cryptocurrency units are used. Along with mining, alternative technologies for ensuring the issue of cryptocurrency units are forging (minting) and initial coin offering (ICO). Thus, excessive detailed legal regulation of new private types of digital technologies sometimes contributes to the emergence of gaps, since with the appearance of new objects or phenomena in objective reality, the legislator each time has to make efforts to reform the entire block of legislation related to this new object or phenomenon.

In Kazakhstan, by analogy with Russia, the term "cryptocurrency" was also abandoned and replaced with an even more inappropriate term "digital asset". In accordance with paragraph 56-1) of Article 1 of the Law of the Republic of Kazakhstan No. 418-V "On Informatization" (2015), a digital asset is a property created in electronic digital form using cryptography and computer computing, which is not a financial instrument, and an electronic digital form of property rights certification. The legal regime. It follows from this definition that a digital asset is, primarily, property. Notably, there is no legislative or

doctrinal definition of "property" in the Republic of Kazakhstan as such. The definition of property is expressed through the enumeration of its individual types. According to the current version of the Civil Code of the Republic of Kazakhstan (1994), a digital asset is classified as property by directly including it in the open list of types of objects of civil rights. All the above constitute a vicious circle: a digital asset is a property, and property is, among other things, a digital asset. That is, if a digital asset is a property in general, a digital asset can be any other type of property listed in the Civil Code of the Republic of Kazakhstan (1994), suitable for the characteristics of a digital asset.

Therewith, a digital asset is also a form of certification of property rights or simply a digital certificate of other independently existing property (property rights). In this case, the digital asset is no longer property but just a digital form certifying the existence of another property. The indignation of the Kazakh legal scholar M.K. Suleimenov (2020) is reasonable, who indicates the following drawback: "Developers need to decide what it is – a digital asset: a property or a form of property certification. The fact is that one excludes the other. It is either property or a form certifying the property". The incorrectness of using "digital" in the name was already discussed, and, unlike Russian legislation, in the Republic of Kazakhstan, cryptocurrency exists in electronic-digital form. The meaning of the terms "electronic" and "digital" is discussed above, further, an in-detail consideration of their relationship is provided. Goods as objects of the real world that are of interest to the subject of law can exist in the form of things, that is, tangible objects of the real world, or valuable data generated and functioning using electronic means. Data that do not exist in objective reality, in any case, must be clothed in a tangible form for the subject of the law of their external expression and existence. It seems that the data created and functioning through electronic means exist in the form of a code – digital or non-digital. Therefore, the following conclusion is drawn: the digital code is always electronic since it exists in an information system that functions inside and through electronic means. The reference to the electronic digital form loses its meaning, because, as noted earlier, firstly, the creator of the system can conceive it both in digital and non-digital form, and secondly, the digital code is always electronic.

A digital asset is not a financial instrument, which in the Republic of Kazakhstan is understood as "any legally substantial confirmation of property rights to money or monetary obligations that are objects of financial markets, or the circulation of which (as a means of legally substantial transfer of property) provides an opportunity for the redistribution of financial resources" (KARAGUSOV, 2014). In particular, financial instruments may include securities, contracts for the transfer of money, and money. Based on the current

legislation, a digital asset in the Republic of Kazakhstan, not being a financial instrument, is an independent type of property. M.K. Suleimenov (2020), who states that digital assets cannot be things, does not agree with this position. Digital assets are always property rights as an object of civil rights. Unlike Russian legislation, in Kazakhstan, in accordance with paragraph 1 of Article 33-1 of the Law of the Republic of Kazakhstan No. 418-V "On Informatization" (2015), a digital asset is not a means of payment. This means that even if there is an agreed will of the parties to the civil turnover, the cryptocurrency cannot be used in a civil transaction as a means of payment. However, since a digital asset is a property, nothing prohibits its use in a barter transaction, which would indirectly mean the use of a digital asset as a means of payment.

In the course of the comparative legal analysis, the other contradictions were noted. Digital assets can be secured and unsecured. "Secured digital assets include a digital token and other digital assets that are a digital means of certifying property rights to goods and (or) services issued (provided) by the person who issued the secured digital asset". This legal provision contains errors in legal technique: a digital asset does not seem to be a financial instrument, meanwhile a secured digital asset is a means of certifying property rights, i.e., in fact, a financial instrument, based on the definition of the generic concept of this term in paragraph 1 of Article 128-1 of Civil Code of the Republic of Kazakhstan (1994). Therewith, the digital asset, according to the direct instructions of paragraph 4 of Article 33-1 of the Law of the Republic of Kazakhstan No. 418-V "On Informatization" (2015), does not provide rights to other financial instruments.

The actual cryptocurrency, within the meaning of Part 3, paragraph 2 of Article 33-1 of the Law of the Republic of Kazakhstan No. 418-V "On Informatization" (2015), are unsecured digital assets, i.e., digital tokens received as a reward for taking part in maintaining consensus in the blockchain following the procedure established by the legislation of the Republic of Kazakhstan. The law established a general ban on the issuance and circulation of unsecured digital assets in the territory of the Republic of Kazakhstan. Exceptions may be cases directly provided for by the laws of the Republic of Kazakhstan. In particular, such exceptions include acts of the Astana International Financial Centre (AIFC), according to which the cryptocurrency (referred to in the AIFC as "private electronic currency") freely circulates on the territory of the AIFC. As a general rule, the issue and turnover of cryptocurrencies (digital currencies) on the territory of the Republic of Kazakhstan as unsecured digital assets are explicitly prohibited by law.

Therewith, digital mining is not prohibited in the Republic of Kazakhstan. A person engaged in digital mining and receiving cryptocurrency as

a result of its implementation has the right to conduct such activities but is obliged to notify the authorised body in advance. They also become the owner of the digital asset, according to paragraph 8 of Article 33-1 of the Law of the Republic of Kazakhstan No. 418-V "On Informatization" (2015), which allows discussing the recognition by the legislator of the real-legal nature of the digital asset or the extension of the legal regime of items and ownership rights to the digital asset. In Kazakh legal science, an opinion is expressed about the mistakes of legal techniques made during the preparation of the draft law. In particular, the term "asset" is absent in Kazakh civil law. Instead, the Civil Code uses the term "property" (GIKAY, 2019).

According to the current legislation on accounting and financial reporting, an asset is one of the elements of financial statements related to the assessment of the financial position of an individual entrepreneur or a legal entity, along with liabilities and capital. An asset is resources controlled by an individual entrepreneur or an organisation as a result of past events, from which future economic benefits are expected to be obtained (clause 1 of Article 13 of the Law of the Republic of Kazakhstan No. 234-III "On Accounting and Financial Reporting" (2007). Assets consist of fixed assets, inventories, and intangible assets, as specified in Order of the Minister of Finance of the Republic of Kazakhstan No. 50 "On Approval of the National Financial Reporting Standard" (2013). Fixed assets include assets that have a tangible form. Inventories are assets held for sale in the ordinary course of business, or in the form of raw materials and supplies intended for use in the production process. In other words, fixed assets and stocks for civil law are things. Accordingly, intangible assets are other property that is not related to things (an identifiable non-monetary asset that does not have a physical form and is held for use in production or consumption) (ZAITSEV, 2016). In fact, an asset is a financial and legal term containing in its definition all the features of the civil concept of "property". Firstly, it is not entirely clear why the legislator used a financial and legal term to designate cryptocurrencies instead of a civil-legal one, which is ultimately disclosed through civil-legal categories.

Secondly, calling cryptocurrency an asset in civil law, the legislator unreasonably outlined the scope of its legal regime. If a cryptocurrency is an asset, it means that it is a property in general, regardless of any particular type of it. This creates legal uncertainty, misleads about the nature of the phenomenon, and does not contribute to the correct choice of legal provisions to be applied when regulating cryptocurrencies and resolving emerging disputes. The study tends to agree with M.K. Suleimenov's (2020) opinion regarding the unacceptability of using the term "asset" to designate cryptocurrency as an intersectoral concept. Under certain conditions, for the purposes of accounting,

financial reporting, and taxation, cryptocurrency can be recognised as an asset or some kind of it, being property.

Other characteristics. As it was noted earlier, the cryptocurrency itself, according to the legislation of the Republic of Kazakhstan, is an unsecured digital asset. Thus, the law establishes such a characteristic of cryptocurrency as its lack of real assets. The law also fixes other signs of cryptocurrency: it is created using cryptography and computing. The key characteristics of the cryptocurrency for the Republic of Kazakhstan are the ways of its creation. Notably, today cryptography is widely used in a variety of industries. For example, an electronic digital signature, which is currently actively used by most of the population of the Republic of Kazakhstan to obtain public services, is created and operates involving cryptography and using private and public keys. As for computing, perhaps, this property cannot be characteristic exclusively for cryptocurrencies, since any activities of electronic means are based on algorithms and automated processing of mathematically formulated tasks. The definition proposed by the legislator gives reason to assume that not only cryptocurrency can fall under the concept of "digital asset", but also a fairly wide list of data and technologies, all property in general, created, existing, or functioning in electronic forms, such as an electronic digital signature, for example.

Digital mining. Attention should be drawn to the errors of legal technique made when formulating the definition of "digital mining". According to the legislative definition, digital mining is the process of performing computing operations using computers and energy capacities... For some reason, the legislator decided to clarify that not only computers but also some energy capacities are used in the mining process. From a legal standpoint, the fact that electric energy is used in the mining process has no importance for determining the legal regime and applicable legal provisions. It is not entirely correct to indicate in the definition of "mining" the phrase "energy power", which is not known to physics, since there are only concepts of "electric power", "energy", and "power". In this regard, in Kazakh legislation, there is no definition of "energy power" at all, and in Russian legislation, the size of energy power was previously defined in agriculture as the total power of mechanical, electric motors, and the power of live traction power serving the production process (ROSSTAT ORDER NO. 260..., 2008).

It is necessary to note the uncertainty of Kazakh legislation related to the legalisation of digital mining as a process of introducing cryptocurrencies into circulation, despite the general legislative ban on the issuance and circulation of unsecured digital assets in Kazakhstan. In addition, on (06/24/2021), the Republic of Kazakhstan adopted a law establishing a new fee for digital mining

in the Code of the Republic of Kazakhstan No. 120-VI "On taxes and other obligatory payments to the budget (Tax Code)" (2017) (mandatory payment to the state budget). According to this law, persons engaged in digital mining in the Republic of Kazakhstan are required to pay a fee to the state budget for the amount of electric energy consumed during digital mining. It is also probable that overregulation (overly detailed regulation) can also have a negative effect. For example, the legislator may not consider various important non-legal (technical, physical, economic, etc.) details and features. Moreover, such features or transformations will inevitably occur later, which entails the obsolescence of the legal provisions put into effect and the need for their constant modernisation, which is wasteful from the standpoint of saving time and other resources (KERIMKHULLE et al., 2022).

Within the framework of the comparative legal analysis conducted, the study has established substantial differences between the legislation of the Republic of Kazakhstan and the Russia regulating the circulation of cryptocurrencies. As a result, the advantages and disadvantages of each of the considered legislative acts were noted, which would further formulate amendments and additions to the current legislation of the Republic of Kazakhstan on digitalisation issues to be adopted and reflected. Thus, the Russia and the Republic of Kazakhstan almost simultaneously adopted amendments to the legislation on digitalisation, but they did it in diametrically opposite ways:

1. The Russia adopted an independent law governing cryptocurrency (Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia" (2020)), and the Republic of Kazakhstan adopted a package of point amendments to various regulations, including the Civil Code of the Republic of Kazakhstan (1994) and the Law of the Republic of Kazakhstan No. 418-V "On Informatization" (2015).
2. Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia" (2020) recognised the cryptocurrency as a payment function and a means of circulation, and allowed, albeit with known restrictions, the use of cryptocurrency as a means of payment and other property. The Law of the Republic of Kazakhstan No. 347-VI "On amendments and additions to certain legislative acts of the Republic of Kazakhstan on the regulation of digital technologies" (2020) banned cryptocurrency as a payment method but legalized its use as property and digital mining to attract non-resource investments.

3. The analysis of Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia" (2020) allows concluding that the Russian legislator has taken the path of establishing general legal provisions that only outline the legal field for the use of all the functionality of the cryptocurrency. The Law of the Republic of Kazakhstan No. 418-V "On Informatization" (2015), in contrast to the Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia" (2020), focuses on concepts that have not yet been properly consolidated in practice and are not essential for creating a foundation for the legal regulation of cryptocurrencies. As noted earlier, this led to the fact that in this way a large number of details and features were overlooked and disregarded or reflected improperly.

In the legislation of the Republic of Kazakhstan and the Russia, cryptocurrency has already been assigned a place in the system of objects of civil rights, although the study does not fully agree with their legal position. Today society is on the threshold of the next stage – the definition of the financial and legal regime of cryptocurrency. Soon, states will have to decide:

- Whether cryptocurrency would be accepted for public legal payments;
- What legal regime would be assigned to it for tax purposes;
- Whether citizens and organisations would be obliged to declare ownership of cryptocurrency and transactions with it, especially in the context of the already phased-in universal declaration in the Republic of Kazakhstan;
- Whether states recognise cryptocurrency as private money;
- What would be the financial and legal regulation of the procedure for the introduction and circulation of cryptocurrencies on the territory of a particular state.

The authors hold the view that the potential replacement of cash by cryptocurrency in the near future is unlikely. Despite the growing popularity of Bitcoin and the availability of various cryptocurrency market courses, a complete substitution of traditional currency with electronic money is not currently feasible. Many nations exhibit scepticism towards cryptocurrencies or do not recognize them as legal tender. The transition to such a system would

necessitate significant time and resources, which some stakeholders may be unwilling to commit. It is hypothesized that eventual worldwide adoption of cryptocurrency will be subject to regulatory frameworks established by individual countries. To expound upon this topic, it is crucial to consider several relevant factors. First and foremost, while cryptocurrencies have gained substantial attention and usage, they face inherent challenges that hinder their widespread adoption as a replacement for cash. Issues such as price volatility, scalability, and regulatory concerns pose significant barriers to their seamless integration into existing financial systems. Price volatility is a crucial consideration. Cryptocurrencies, including Bitcoin, have exhibited notable price fluctuations, often experiencing rapid appreciation or depreciation over short periods. Such volatility makes cryptocurrencies less stable compared to traditional fiat currencies like the US dollar or the Euro. The unpredictable nature of cryptocurrency values raises concerns regarding its suitability as a reliable medium of exchange and store of value. Moreover, scalability remains a fundamental obstacle to cryptocurrency's mainstream adoption. Existing blockchain technologies, which underpin most cryptocurrencies, face limitations in terms of transaction processing speed and volume. This results in slower transaction confirmation times and higher fees compared to traditional financial systems. To replace cash effectively, cryptocurrencies must address these scalability issues to accommodate the immense volume of transactions that occur daily on a global scale. Regulatory challenges further impede the widespread acceptance of cryptocurrencies as a substitute for cash. Governments worldwide have adopted diverse stances towards digital currencies, ranging from outright bans to developing robust regulatory frameworks. Concerns such as money laundering, terrorist financing, consumer protection, and tax evasion have prompted authorities to implement measures to regulate cryptocurrency transactions. This regulatory landscape creates an additional layer of complexity that must be navigated for cryptocurrency to become universally accepted. While the complete replacement of cash with cryptocurrency may not be imminent, it is plausible to envision a future where cryptocurrencies coexist with traditional currencies within a regulated framework. Several countries have taken steps to embrace cryptocurrencies by establishing legal frameworks, licensing cryptocurrency exchanges, and exploring central bank digital currencies (CBDCs). These initiatives aim to strike a balance between harnessing the potential benefits of cryptocurrencies while mitigating associated risks.

Although cryptocurrencies have gained popularity and usage, the transition from cash to electronic money is unlikely to occur in the near future. Challenges related to price volatility, scalability, and regulatory concerns hinder



their widespread adoption. However, as countries continue to explore and regulate cryptocurrencies, a future where digital currencies coexist alongside traditional cash is conceivable. Achieving this vision will necessitate addressing the aforementioned challenges while establishing robust regulatory frameworks to govern cryptocurrency transactions.

## CONCLUSION

The comparative legal analysis of the international practice of state regulation of the circulation of cryptocurrencies conducted in this study has demonstrated a wide range of possible options for such regulation: from a complete ban on any actions and transactions with it to the complete legalisation of cryptocurrencies in circulation both as money and as other property (asset). According to the results of this study, as one of the practically substantial conclusions, the following thesis is proposed: the choice of strategies toward banning or ignoring new attributes of modern life can lead to negative consequences. The legal entity's lack of a legal framework for the legitimate implementation of functions of cryptocurrency will facilitate its use for prohibited transactions (laundering of proceeds from crime, financing of terrorism, purchase or sale of prohibited goods, services, etc.).

Ignoring cryptocurrencies can eventually lead to their mass use and the lack of legal protection for entities owning cryptocurrencies. This study suggests that the full legalisation of cryptocurrency is the most acceptable approach to its recognition and adequate legal regulation. In this case, the state would centrally create a legal framework for the use of cryptocurrencies and the implementation of its main functions, and the free market would independently regulate the need for this economic aggregate. In connection with the emerging events in the world, the issues of monetary relations receded into the background, but they have not become less important. The studies conducted in this area continue to appear. New technologies are being introduced into people's lives everywhere, and their rights and legitimate interests in connection with their use must be protected. This study deeply considered the problems of monetary relations and cryptocurrency circulation, which serves as a foundation for further investigations and contributes to the development of a legal position that meets the interests of society at the national, regional, and global levels.

## REFERENCES

ARTYOMOV, N.M., ARZUMANOVA, L.L., & SITNIK, A.A. (2012).  
*Monetary law (financial and legal regulation of the circulation of*

- national and foreign currencies in the territory of the Russia*). Moscow: "Elita" Publishing House.
- ARTYOMOV, N.M., LAGUTIN, I.B., SITNIK, A.A., & URDA, M.N. (2016). *Legal regulation of monetary circulation (Money law)*. Moscow: INFRA-M.
- BEIGEL, O. (2022). *Who Accepts Bitcoin as Payment?* Retrieved from: <https://99bitcoins.com/bitcoin/who-accepts/>.
- Bitcoin is recognized as an official payment method in Japan. (2017). Retrieved from: <https://pravo.ua/v-japonii-bitkoin-priznan-oficialnym/>.
- Bitcoin: El Salvador makes cryptocurrency legal tender. (2021). Retrieved from: <https://www.bbc.com/news/world-latin-america-57398274>.
- Blockchain., Cryptocurrency Laws., & Regulation. (2021). Retrieved from: <https://www.globallegalinsights.com/practice-areas/blockchain-laws-and-regulations/Japan>.
- China declares all crypto-currency transactions illegal. (2021). Retrieved from: <https://www.bbc.com/news/technology-58678907>.
- CHORNOUS, Y., DENYSENKO, S., HRUDNYTSKYI, V., TURKOT, O., & SIKORSKYI, O. (2019). Legal regulation of cryptocurrency turnover in Ukraine and the EU. *Journal of Legal, Ethical and Regulatory Issues*, 22(2), 91-102.
- Civil Code of the Republic of Kazakhstan. (1994). Retrieved from: [https://online.zakon.kz/Document/?doc\\_id=1006061](https://online.zakon.kz/Document/?doc_id=1006061).
- Civil Code of the Russia. (1994). Retrieved from: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_5142/](http://www.consultant.ru/document/cons_doc_LAW_5142/).
- Code of the Republic of Kazakhstan No. 120-VI "On taxes and other obligatory payments to the budget (Tax Code)". 2017. Retrieved from: [https://online.zakon.kz/document/?doc\\_id=36148637#sub\\_id=0](https://online.zakon.kz/document/?doc_id=36148637#sub_id=0).
- Constitution of the Russia. (1993). Retrieved from: <http://www.constitution.ru/>.
- CVETKOVA, I. (2018). Cryptocurrencies Legal Regulation. *BRICS Law Journal*, 5(2), 112-120.
- DE HOON, I. (2021). *Germany: A Surprising Bitcoin Tax Haven*. Retrieved from: <https://nomoretax.eu/bitcoin-tax-haven-germany/>.
- DIGITAL CURRENCIES. (2021). Retrieved from: <https://cutt.ly/kXvoljT>.
- Digital ruble. Report for public consultations. (2020). Retrieved from: [https://www.cbr.ru/StaticHtml/File/112957/Consultation\\_Paper\\_201013.pdf](https://www.cbr.ru/StaticHtml/File/112957/Consultation_Paper_201013.pdf).
- Digital tenge (pilot project). (2021). Retrieved from: <https://nationalbank.kz/ru/page/cifrovoy-tenge-pilotnyy-proekt>.
- Directive (EU) 2018/843 of the European Parliament and of the Council amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU. (2018). Retrieved from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32018L0843>.

- DOLGIYEVA, M.M. (2018). Foreign experience of legal regulation of relations in the field of cryptocurrency circulation. *Lex Russica*, 10(143), 116-128.
- Draft Law No. 1065710-7 "On Amendments to Parts One and Two of the Tax Code of the Russia". (2020). Retrieved from: <https://sozd.duma.gov.ru/bill/1065710-7>.
- DULATOVA, N., ABD RAZAK, H. (2020). The Ecosystem of Cryptocurrency as an Object of Civil Rights in BRICS Countries. *BRICS Law Journal*, 7(2), 92-105.
- EGOROVA, M.A. (2019). Bitcoin as a special type of cryptocurrency: the concept, meaning and prospects of legal regulation in entrepreneurial activity. *Actual Problems of Russian Law*, 6(103), 53-71.
- EGOROVA, M.A., EFIMOVA, L.G. (2019). The concept of cryptocurrencies in the context of improved. *Lex Russica*, 7(152), 130-138.
- Federal Law No. 115-FZ "On counteracting the legalization (laundering) of proceeds from crime and the financing of terrorism". (2016). Retrieved from: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_32834/](http://www.consultant.ru/document/cons_doc_LAW_32834/).
- Federal Law No. 127-FZ "On Insolvency (Bankruptcy) ". (2011). Retrieved from: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_39331/](http://www.consultant.ru/document/cons_doc_LAW_39331/).
- Federal Law No. 229-FZ "On Enforcement Proceedings". (2016). Retrieved from: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_71450/](http://www.consultant.ru/document/cons_doc_LAW_71450/).
- Federal Law No. 259-FZ "On digital financial assets, digital currency and on amendments to certain legislative acts of the Russia". (2020). Retrieved from: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_358753/](http://www.consultant.ru/document/cons_doc_LAW_358753/).
- Federal Law No. 273-FZ "On Combating Corruption". (2014). Retrieved from: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_82959/](http://www.consultant.ru/document/cons_doc_LAW_82959/).
- Federal Law No. 39-FZ "On investment activities in the Russia carried out in the form of capital investments". (2005). Retrieved from: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_22142/](http://www.consultant.ru/document/cons_doc_LAW_22142/).
- Federal Law No. 79-FZ "On the prohibition of certain categories of persons to open and have accounts (deposits), keep cash and valuables in foreign banks located outside the territory of the Russia, own and (or) use foreign financial instruments". (2011). Retrieved from: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_145998/](http://www.consultant.ru/document/cons_doc_LAW_145998/).
- FOMIN, D. (2020a). *China spoke about the results of testing the digital yuan*. Retrieved from: <https://www.rbc.ru/crypto/news/5f8d83a69a7947976d8dc9ee>.
- FOMIN, D. (2020b). *Aksakov called bitcoin a threat to the financial system*. Retrieved from: <https://www.rbc.ru/crypto/news/5f3634719a79473cc75f6aac?from=main>.
- FOMIN, D. (2020c). *The European Commission presented the rules for regulating the cryptocurrency market*. Retrieved from: <https://www.rbc.ru/crypto/news/5f6cc6fe9a79470f9eb8a854>.
- Germany: Federal Ministry of Finance Publishes Guidance on VAT Treatment of Virtual Currencies. (2018). Retrieved from: <https://cutt.ly/sXvsqEx>.

- GERSHOWITZ, A. M. (2019). Criminal-Justice Apps: A Modest Step Toward Democratizing the Criminal Process. *Virginia Law Review*, 105, 37-56.
- GIKAY, A.A. (2019). European Consumer Law and Blockchain based Financial Services: A Functional Approach against the Rhetoric of Regulatory Uncertainty. *Tilburg Law Review*, 24(1), 27-48.
- Guide for cryptocurrency users and tax professionals. (2021). Retrieved from: <https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/compliance/digital-currency/cryptocurrency-guide.html>.
- HACKETT, R. (2021). *That settles it: Visa is making life way easier for crypto businesses*. Retrieved from: <https://fortune.com/2021/03/29/visa-crypto-business/>.
- HAMUKUAYA, N.H. (2021). The Development of Cryptocurrencies as a Payment Method in South Africa. *Potchefstroom Electronic Law Journal*, 2021(24), 125-134.
- KARAGUSOV, F. S. (2002). *Securities and money in the system of objects of civil rights*. Almaty: Zheti Zhargy publishing house.
- KARAGUSOV, F.S. (2014). *Abstracts of the report on the regulation of the regime of financial instruments by the norms of the civil code of the Republic of Kazakhstan*. Retrieved from: [https://online.zakon.kz/Document/?doc\\_id=31664253](https://online.zakon.kz/Document/?doc_id=31664253).
- KERIMKHULLE, S., AITKOZHA, Z., SALIYEVA, A., KERIMKULOV, Z., ADALBEK, A., TABERKHAN, R. (2023). Using Technical and Structural Coefficients of Economic Statistics to Equalize Flows of Input-Output Table. *Lecture Notes in Networks and Systems*, 596 LNNS, 501-511. [https://doi.org/10.1007/978-3-031-21435-6\\_44](https://doi.org/10.1007/978-3-031-21435-6_44)
- KERIMKHULLE, S., BAIZAKOV, N., SLANBEKOVA, A., ALIMOVA, Z., AZIEVA, G., KOISHYBAYEVA, M. (2022). The Kazakhstan Republic Economy Three Sectoral Model Inter-sectoral Linkages Resource Assessment. *Lecture Notes in Networks and Systems*, 502 LNNS, 542-550.
- KLIMENKO, O., MASHCHENKO, M. (2022). Forecasting effectiveness of government measures regarding the economic development of Ukraine. *Economics of Development*, 21(3), 8-14. [https://doi.org/10.57111/econ.21\(3\).2022.8-14](https://doi.org/10.57111/econ.21(3).2022.8-14)
- KORNEYEV, A. (2020). *Bill Gates criticized bitcoin due to electricity consumption*. Retrieved from: <https://www.rbc.ru/crypto/news/603750589a7947672d8bd615>.
- KUCHEROV, I.I. (2012). *Money, monetary obligations and monetary penalties*. Moscow: YurInform Center.
- KUCHEROV, I.I. (2018). Cryptocurrency as a payment method. *Financial Law*, 7, 43-51.
- Law of the Republic of Kazakhstan No. 234-III "On Accounting and Financial Reporting". (2007). Retrieved from: [https://online.zakon.kz/document/?doc\\_id=30092011](https://online.zakon.kz/document/?doc_id=30092011).

- Law of the Republic of Kazakhstan No. 347-VI "On amendments and additions to certain legislative acts of the Republic of Kazakhstan on the regulation of digital technologies". (2020). Retrieved from: [https://online.zakon.kz/Document/?doc\\_id=34230083](https://online.zakon.kz/Document/?doc_id=34230083). Access date: 09 November 2022.
- Law of the Republic of Kazakhstan No. 418-V "On Informatization". (2015). Retrieved from: [https://online.zakon.kz/Document/?doc\\_id=33885902](https://online.zakon.kz/Document/?doc_id=33885902). Access date: 03 November 2022.
- Law of Ukraine No. 2074-IX "On virtual assets". (2022). Retrieved from: <https://zakon.rada.gov.ua/laws/show/2074-20#Text>. Access date: 04 November 2022.
- Layoffs continue in Abkhazia due to cryptocurrency mining farms. (2021). Retrieved from: <https://easily.com/ru/news/2021/02/26/v-abkhazii-prodolzhayutsya-uvolneniya-iz-za-ferm-po-dobyche-kriptoalyut>. Access date: 01 November 2022.
- MAKALIUK, I. (2016). Diagnostics of transaction costs flow quality influence on economic results. *Economic Annals-XXI*, 156(1-2), 74-77.
- MIRZOYAN, R.E. (2005). Historical background of non-cash money circulation. *Bulletin of the Adyghe State University*, 1, 131-133.
- MISHCHENKO, V., NAUMENKOVA, S., GRYSSENKO, A., MISHCHENKO, S. (2022). Operational risk management of using electronic and mobile money. *Banks and Bank Systems*, 17(3), 142-157. [http://dx.doi.org/10.21511/bbs.17\(3\).2022.12](http://dx.doi.org/10.21511/bbs.17(3).2022.12)
- MISHCHENKO, V.I., MISHCHENKO, S.V. (2015). Enhancing the effect of transmission channels in monetary policy of Ukraine under the transition to inflation targeting. *Actual Problems of Economics*, 163(1), 421-428. [http://nbuv.gov.ua/UJRN/ape\\_2015\\_1\\_52](http://nbuv.gov.ua/UJRN/ape_2015_1_52)
- NAKAMOTO, S. (2014). *Bitcoin: A Peer-to-Peer Electronic Cash System*. Retrieved from: <https://bitcoin.org/bitcoin.pdf>. Access date: 02 November 2022.
- Note of the Ministry of Finance of the Russia No. 03-04-07/80764. (2018). Retrieved from: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_311847/](http://www.consultant.ru/document/cons_doc_LAW_311847/).
- Order of the Minister of Finance of the Republic of Kazakhstan No. 50 "On Approval of the National Financial Reporting Standard". (2013). Retrieved from: [https://online.zakon.kz/m/document/?doc\\_id=31335042](https://online.zakon.kz/m/document/?doc_id=31335042).
- OZHEGOV, S.I. (2021) *Explanatory Dictionary*. Retrieved from: <https://slovarozhegova.ru/>. Access date: 09 November 2022.
- PANDYA, S., MITTAPALLI, M., TEJA GULLA, S.V., LANDAU, O. (2019). Cryptocurrency: Adoption efforts and security challenges in different countries. *Holistica*, 10(2), 15-19.
- PANOVA, O., LEHEZA, YU., IVANYTSIA, A., MARCHENKO, V., OLIUKHA, V. (2019). International models of legal regulation and

- ethics of cryptocurrency use: country review. *Journal of Legal, Ethical and Regulatory Issues*, 22(2), 67-72.
- PAQUET-CLOUSTON, M., HASLHOFER, B., DUPONT, B. (2019). Ransomware payments in the Bitcoin ecosystem. *Journal of Cybersecurity*, 5(1), 39-42.
- PATASHKOVA, Y., NIYAZBEKOVA, S., KERIMKHULLE, S., SERIKOVA, M., TROYANSKAYA, M. (2021). Dynamics of Bitcoin trading on the Binance cryptocurrency exchange. *Economic Annals-XXI*, 187(1-2), 177-188. <https://doi.org/10.21003/EA.V187-17>
- PHADTARE, M. (2022). *Saudi Arabia: The Legality of Cryptocurrency in Saudi Arabia: Everything you need to know*. Retrieved from: <https://regtechtimes.com/the-legality-of-cryptocurrency-in-saudi-arabia/>. Access date: 05 November 2022.
- Q2 2022 Global Crypto Ranking: Germany goes head to head with the USA. (2022). Retrieved from: <https://coincub.com/ranking/the-coincub-q2-global-crypto-ranking-categories-2022/>. Access date: 09 November 2022.
- Rosstat Order No. 260 "On Approval of Guidelines for Completing Federal Statistical Observation Forms No. 2 Production of Agricultural Products in Personal Partial and Other Individual Farms of Citizens". (2008). Retrieved from: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_82598/](http://www.consultant.ru/document/cons_doc_LAW_82598/). Access date: 09 November 2022.
- RUECKERT, C. (2019). Cryptocurrencies and fundamental rights. *Journal of Cybersecurity*, 5(1), 13-17.
- SAVELYEVA, A. (2021). *Power outages began in Iran due to Chinese miners*. Retrieved from: <https://www.it-world.ru/it-news/reviews/169409.html>. Access date: 05 November 2022.
- SEPHTON, C. (2021). *How many cryptocurrencies are there?* Retrieved from: <https://currency.com/how-many-cryptocurrencies-are-there>. Access date: 02 November 2022.
- SILAGADZE, A. (2022). Contemporary Global Economic Trends: Transitional Economies during Covid-Depression. *Bulletin of the Georgian National Academy of Sciences*, 16(3), 130-135. <http://science.org.ge/bnas/vol-16-3.html>
- SINGH, A., CHAWLA, S. (2019). Cryptocurrency Regulation: Legal Issues and Challenges. *International Journal of Reviews and Research in Social Sciences*, 7(2), 365-375.
- SULEIMENOV, M.K. (2020). *Digitalization and improvement of civil legislation (article two, corrected and amended)*. Retrieved from: [https://online.zakon.kz/Document/?doc\\_id=39845707](https://online.zakon.kz/Document/?doc_id=39845707).
- The first loan secured by cryptocurrency was issued in Russia. (2020). Retrieved from: <https://cutt.ly/aXvgVbQ>. Access date: 05 November 2022.
- TOVMA, N. (2013). Audit organization for commodity transactions. *Actual Problems of Economics*, 146(8), 472-476.

- TSINDELIANI, I.A., NIGMATULINA, L.B. (2018). Cryptocurrency as an object of civil law and financial and legal regulation. *Financial Law*, 7, 43-61.
- UKWUEZE, F.O. (2021). Cryptocurrency: Towards Regulating the Unruly Enigma of Fintech in Nigeria and South Africa. *Potchefstroom Electronic Law Journal*, 2021(24), 519-525.
- USHAKOV, D.N. (2021). *Explanatory dictionary of the Russian language*. Retrieved from: <https://ushakovdictionary.ru/>.
- ZAITSEV, O.V. (2016). Monetary inflation and its connection with rising prices. *Journal of Advanced Research in Law and Economics*, 7(3), 698-707. [https://doi.org/10.14505/jarle.v7.3\(17\).27](https://doi.org/10.14505/jarle.v7.3(17).27)

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