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DIGITAL CURRENCY IN BROADER SENSE, STATUS, REGULATION AND DEVELOPMENT TRENDS[1]

Abstract

The present article deals with one of the phenomena of the Industrial (Digital) revolution 4.0, which is digital currency in broader sense, respectively virtual currencies, as some authors refer to them. Despite the fact that this phenomenon is not such a novelty in society, it has demanded the focus of legal science only in recent years and the discussion has not subsided, it can be stated that it is only in the beginning. Along with digital currency in broader sense, there are several issues, such as the correctness of their naming, their legal status and, as far as the area of tax law is concerned, these are also questions of the manner and possibilities of taxing transactions with them. Authors set as a goal of this article to verify the following hypotheses:

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- the naming of digital currency in broader sense as a currency is incorrect given the existing knowledge of financial law science.
- the legal regulation of digital currency in broader sense in selected Member States of the European Union is not sufficient.

To verifying the above hypotheses, the authors used several methods of writing scientific works, but especially analysis, synthesis, the method of comparison and the historical method, which the authors used in combination with each other.

Key words: tax, law, tax law, digital currency in broader sense, digital tax, digital revolution.

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1. Introduction

The second decade of the 20th century is associated with rapid technological development, and for this reason, this period is also referred to as the Industrial (Digital) Revolution 4.0. The phenomena that the digital economy brings with it were something that national legal systems did not remember, and national parliaments had to deal with several new issues. Individual legislative measures being adopted at different intervals, depending on the urgency of the particular issue, which should be regulated by them.

One of the phenomena of the digital economy is also digital currency in broader sense[2], respectively virtual currencies, as some authors refer to them [Nádaský, Pénzeš 2013: 25-28]. Despite the fact that this phenomenon is not such a novelty in society[3], it has demanded the focus of legal science only in recent years and the discussion has not subsided, it can even be stated that it is only in the beginning.

Several questions of a legal nature arise, in relation to which there is not still clear answer. Many of them also have an interdisciplinary overlap. The tax-legal and financial-legal aspects of digital currency in broader sense are not exception.

We therefore see as an irreplaceable position for the science of tax law and the science of financial law to contribute to solving certain problems by developing relevant terminology, including the generalization of knowledge gained in the process of application relevant tax norms to tax law relations in order to improve relevant legislation.

[2] For the purposes of this paper, we will primarily use the term "digital currency in broader sense", which we consider to be a more appropriate term for this phenomenon, which we justify in the following sections of this paper.

[3] The most famous digital currency in broader sense Bitcoin was established in 2008 [Nakamoto 2008] with the fact that more attention to it and other, alternative, digital currency in broader sense began to devote only at the turn of 2017 and 2018, when the value of Bitcoin began to attack the limit of 20 thousand USD.

In the following text, we will focus our attention on clarifying the relevant terminology, clarifying the position and nature of digital currency in broader sense with regard to the functions they perform and analysing the current legislation in the Slovak Republic and the Czech Republic[4] with a comparative result, not forgetting recent EU initiatives in this area.

In order to contribute to the scientific discussion in the field, the authors set themselves the goal of verifying the following hypotheses:

- the naming of digital currency in broader sense as a currency is incorrect given the existing knowledge of financial law science.
- the legal regulation of digital currency in broader sense in selected Member States of the European Union is not sufficient.

To verifying the above hypotheses, the authors used several methods of writing scientific works, but especially analysis, synthesis, the method of comparison and the historical method, which the authors used in combination with each other.

We must state that the scientific and professional literature in the field of taxation of the phenomena of the digital economy, or specifically the taxation of digital currency in broader sense, and financial-legal aspects deals with these issues to a minimal scope and there is not publication that is comprehensive and concise.

2. The place of digital currency in broader sense in the Industrial (Digital) revolution 4.0

What can be imagined under the term digital economy? In theory, several definitions can be encountered, with none claiming completeness. The digital economy is a subcategory of the economy itself, which *"(...) is related to the rapid entry and penetration of information and communication technologies into all areas of human activity, which requires new perspectives on factors influencing the development and success of the economy"* [Papula 2017: 22].

The digital economy affects all areas of human life and brings innovative perspectives on life, mutual communication, etc. It also brought changes in legal systems, and one of the first facts that states began to regulate was digital currency in broader sense. Here too, however, the reaction came with a certain delay and the solutions are not complex, as we will present in the following text.

[4] The authors chose these countries for comparison because of their geographical proximity as well as the proximity of the degree of participation in international integration groupings, which is a factor influencing the shape of tax systems.

It is quite natural that states will always look for and find ways to ensure higher public budget revenues. This fact is realized by governments, which come up with their proposals for models of taxation of transactions related to digital currency in broader sense, or taxation of other phenomena of the digital economy.

At present, the number of digital currency in broader sense is in the thousands and more are being added. Digital currency in broader sense is not only Bitcoin, but we know the so-called altcoins, which are alternative "coins" compared to Bitcoin (e.g., Ethereum, Litecoin, and others) [Altcoin]. In monetary terms, the value of digital currency in broader sense is $ 358.48 million as of October 11, 2020 [Today's Cryptocurrency Prices by Market Cap].

In addition to the taxation of revenues from digital currency in broader sense transactions, other key areas of taxation can be identified that should receive more attention to the science of tax law, namely the taxation of the shared economy [Bonk 2018: 1342-1356] and the taxation of digital services [Hrabčák, Popovič 2020: 52-69]. The last of these areas is not regulated in most countries, and discussions on the introduction of a digital services tax, whether as a unilateral solution or a conceptual, Union solution, have been paralyzed by the COVID-19 pandemic and the compensation for its consequences.

In this context, we also use the term digital tax, which is a scientific concept to refer to the taxation of all phenomena of the digital economy, and therefore we do not use it only in relation to the taxation of digital services, as is commonly used by the public. The term digital tax is a collective name of own tax liability as an immanent component of the content of a tax-legal relation, the subject of which are digital phenomena. We also use this term to refer to the tax relating to income generated in connection with dispositions of digital currency in broader sense.

From the above, it is clear that digital currency in broader sense has an irreplaceable position in the digital economy and is gradually becoming part of the daily life of individuals and trade between them. Therefore, we consider as important to devote the naming of these new phenomena, and this is what the next part of this paper discusses.

3. Terminological aspects and essence of digital currency in broader sense

The issue of digital currency in broader sense is accompanied by several open questions in connection with their naming. It must be said that it is often the legislators who, by their activity and the terminology used, do not contribute to the clarification of these areas of problems. On the contrary, it can be stated that they use terms which, by their content, do not correspond to the phenomena on which the name is used.

Such an example is the Slovak Republic, when the Slovak Parliament introduced the concept of virtual currency[5] into the legal order by amending Act no. 595/2003 Coll. on Income Tax, as amended (hereinafter also referred to as the "Slovak Income Tax Act"). But is such a name correct? It is the discussion between members of the science of financial law that is the answer to this question.

However, the legislator does not define the term „virtual currency[6]" in the Slovak Income Tax Act itself. However, the definition can be found in the Methodological Guidelines of the Ministry of Finance of the Slovak Republic no. MF/10386/2018-721 on the procedure for the taxation of virtual currencies, in relation to which we have no reservations and thus digital currency in broader sense is *"(...) a digital bearer of value, which is not issued or guaranteed by the central bank or public authorities, nor is necessarily tied to legal tender, does not have the legal status of currency or money, but is accepted by some natural or legal persons as a means of payment and which can be transferred, stored or traded electronically"* [Methodological Guideline of the Ministry of Finance of the Slovak Republic no. MF/10386/2018-721 on the procedure for taxing virtual currencies].

However, the abovementioned definition is not the Ministry of Finance of the Slovak Republic's own creation, as it was inspired by the European Banking Authority's conceptual definition of "virtual currencies" contained in a document entitled EBA Opinion on "virtual currencies" dating from 2014. It can be evaluated positively, as this definition contains all the essential features of digital currency in broader sense.

As many legal regulations use the term virtual currency, it is necessary to start from the essence of this term. The "currency" represents a specific system of money established in a certain state and systematically regulated by the legal order of that state [Babčák 2017: 454]. Of course, there are other definitions of currency in theory, but it can simply be said that currency is a national (or even supranational) form of money. According to K. Engliš, the currency can be understood as legal tender and the type of money that in which state everyone is obliged to accept by paying the debt [Engliš 1928: 129]. In this context, it is also necessary to point out the principle of monetary sovereignty (lex monetae), the purpose of which is the exclusive right of the state to create its own currency.

[5] The term virtual currency cannot be equated with the term cryptocurrency. Cryptocurrencies are a group of virtual currencies that are based on encrypted operations.

[6] The Slovak Income Tax Act only calculates cases that it considers as the sale of virtual currency. These are, in particular, the exchange of a virtual currency for property, the exchange of a virtual currency for another virtual currency, the exchange of a virtual currency for the provision of a service and the transfer of a virtual currency for consideration [Act no. 595/2003 Coll. on income tax, as amended, Art. 2 letter. et seq.)].

Because of abovementioned facts, the naming of the virtual currency cannot be accepted. At present, there is no virtual currency that is under the supervision of the state and that is created of its will[7]. For this reason, we can speak of a quasi-currency. We therefore believe that it is more appropriate to use the term digital currency in broader sense and not only currency as for example euro etc.

Digital currency in broader sense cannot be referred to as money or electronic money either. As for money, it must meet the requirement of legislative and territorial establishment and submission to the regulations of the economic space [Nádaský, Pénzeš 2013: 25-28]. These characteristics are not significant for digital currency in broader sense, but of forced circulation money, which is also referred to as fiat currency.

Electronic money[8] also has characteristics that cannot be attributed to digital currency in broader sense. This issue has been addressed by the European Central Bank (hereinafter referred to as the "ECB") in its document called "Virtual Currency Schemes". According to the ECB, one of the attributes of electronic money is the legal regulation. This is not meet by digital currency in broader sense. Another distinguishing feature of electronic money from digital currency in broader sense is that digital currency in broader sense is not subject to any supervision.

At the same time, the question arises as to whether digital currency in broader sense can be described as an investment instrument, pointing out that most digital currency in broader sense owners do not use it to carry out transactions, but by speculative purchases of digital currency in broader sense they try to evaluate their money. However, the issue also needs to be assessed in the light of the relevant national legislation. In the conditions of the Slovak Republic, digital currency in broader sense cannot be considered as financial instruments, because § 5 of Act no. 556/2001 Coll. on Securities and Investment Services, as amended, contains a strict calculation that does not include them.

In view of the abovementioned facts, the authors consider the most appropriate concept as digital currency in broader sense, which corresponds to the terminology used in the

[7] However, we must add with one breath that there were, respectively there are an efforts to introduce state digital currency in bro. Such an example is e.g. VATCoin [Ainsworth, Alwohaibi, Cheetham 2017: 11-18].

[8] In defining the concept of electronic money, we are also assisted by Union legislation, according to which electronic money is *„(...) monetary value stored electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions as defined in point 5 of Article 4 of Directive 2007/64/EC, and which is accepted by a natural or legal person other than the electronic money issuer"* [Directive 2009/110 / EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, Art. 2 Sec. 2].

present article. This is due to the fact that it does not have friction points with established knowledge of the science of financial law and it is based on the function for which digital currency in broader sense is primarily intended, as a measure of change.

The functions of digital currency in broader sense determine their essence. The originally intended purpose of digital currency in broader sense was to use it as a measure of change. There is a rare consensus in the scientific community regarding the fulfilment of this function. However, the fulfilment of the function as a store of values and the function as a unit of account is more problematic.

Some authors [Vlček 2018: 78] are in favour of the fact that digital currency in broader sense fulfils, in addition to the function of a measure of change, also the function of a unit of account, as well as the function of a measure of deferred payments. That view can be accepted. In our opinion, however, digital currency in broader sense does not fulfil the function of a store of values, which is related to their high volatility. Therefore, they cannot be compared to commodities such as gold, which have a relatively stable value expressed in fiat currency[9].

In conclusion to this chapter, we state that the established hypothesis has been confirmed - the designation of digital currency in broader sense as a currency is incorrect, taking into account the existing knowledge of the science of financial law. It is also a fact that, nevertheless, not only the general public but also the professional public and important public authorities have adopted the concept in question without criticizing it and reflecting on its essence.

4. Current legal situation in the conditions of the Slovak Republic and the Czech Republic with emphasis on the financial-legal and tax-legal dimension

Slovak Republic:

As we wrote above, the term virtual currency, as a literal translation from foreign literature, was also introduced into the legal order of the Slovak Republic with effect from 1st January 2018. However, in the introduction to this comparative part of the paper, we must state that legal regulation of digital currency in broader sense remembers only on the taxation of income related to transactions with them. Also, our legislation does not regulate a specific group of cryptocurrencies/tokens, namely Initial Coin Offering and Initial Token Offering.

[9] This is generally the case, although some digital currency in broader sense (e.g. Bitcoin) is considered rare due to their limited number.

The position of the National Bank of Slovakia (hereinafter also referred to as the *"NBS"*) is interesting in this context, but it does not differ in any way from the position of other central banks of the surrounding states (see below). On 26th November 2013, the NBS issued a press release entitled "NBS-Bitcoin Notice". Within it, the NBS drew the general public's attention to the fact that *"(...) virtual currencies, such as the so-called Bitcoin are not national currencies and therefore do not fall under national regulations [NBS-Bitcoin warning 2013]." The NBS also pointed out that "(...) virtual currencies do not have a physical consideration in the form of legal tender and participation in such a virtual currency scheme is at the own risk of the parties involved"* [NBS-Bitcoin warning 2013].

However, this is not the first or last activity of the NBS in this area, and one of the newer pieces of information for the public is from 8th April 2020 called "NBS Notice on Bitcoin Revolution, Bitcoin Evolution". The warning was issued following a warning from the Malta Financial Services Authority [MFSA Warning-Bitcoin Revolution 2019]. The NBS thus warned consumers to invest in Bitcoin Revolution and Bitcoin Evolution[10], but also in other cryptoactive assets. At the same time, it reiterated that *"(...) investing in cryptoactive assets is not subject to its supervision and urges consumers to be more vigilant"* [NBS notification on Bitcoin Revolution, Bitcoin Evolution platforms 2020].

Regarding the taxation of digital currency in broader sense in the conditions of the Slovak Republic, we have already stated above that the Slovak Income Tax Act does not define the term "virtual currency", but only what it means by the term sale of virtual currency. This includes exchanging a virtual currency for property, exchanging a virtual currency for another virtual currency, exchanging a virtual currency for a service, and transferring a virtual currency for consideration. Act no. 222/2004 Coll. on value added tax, as amended, does not include the term virtual currency. Digital broader sense is defined in the Methodological Guideline of the Ministry of Finance of the Slovak Republic no. MF/10386/2018-721 on the procedure for taxing virtual currencies (see above).

When taxing income from digital currency in broader sense transactions, it is necessary to know *"(...) the link between this income and economic transactions with them, and to determine the timing and manner of generation income"* [Bagiová 2018: 6]. If the taxpayer is natural person and does not include digital currency in broader sense in the business assets, such income will be included in other income as one of the partial tax bases of personal income tax. In the case of legal persons, such income will also be included in the tax base, which follows from Art. § 17 Sec. 43 of the Slovak Income Tax Act. Income from transactions

[10] The reason for these warnings in relation to the mentioned digital banknotes is to be the suspicion that it is a "cryptome fraud" of the "get rich quick" type, as stated by the NBS.

with digital currency in broader sense will be included in the tax base in the tax period when the already mentioned dispositions with them take place. This is a common rule for all taxpayers, both natural and legal persons.

In addition to the above rules, the legislator did not forget to regulate the so-called digital currency in broader sense mining. By mining we generally mean a certain process in which another block is searched for connection to the Blockchain by means of a demanding calculation [Stroukal, Skalický 2018: 82]. Revenue from mining is included in the tax base in the tax period when the mined digital currency in broader sense is sold [Hrabčák 2019: 99-110].

It is necessary to state that the legal regulation also remembers the possibility of claiming tax expenses, with reference to § 2 letter j) of the Slovak Income Tax Act, according to which the tax base is *"(...) the difference by which taxable income exceeds tax expenditures while respecting the material and temporal connection of taxable income and tax expenditures in the relevant tax period, if this Act (authors' note: The Slovak Income Tax Act) does not provide otherwise"* [Act No. 595/2003 Coll., On income tax, as amended, Art. 2 Letter j)]. Thus, tax expenditures are also costs in the amount of the sum of input prices of digital currency in broader sense in the tax period in which they are sold, but not more than the amount of the total income from their sale. It is, in essence, a protective provision which does not allow a tax loss to be incurred and its subsequent deduction in such situations. This measure to prevent tax loss can be seen as a response to the fact that digital currency in broader sense is generally not subject to state supervision.

Czech Republic:

The Czech Republic is also one of those countries (similarly to, for example, the Slovak Republic), which does not have a comprehensive regulation of digital currency in broader sense. This also applies to the area of taxation, which we will clarify in the text below. Regarding the status of digital currency in broader sense, the views of the relevant public authorities are also interesting in this case.

The Czech National Bank (hereinafter also referred to as the *"CNB"*) has an opinion in relation to Bitcoin and other digital currency in broader sense, according to which it is not a cash under Act no. 370/2017 Coll., On payment system, as amended. This also corresponds to what we said in the section on terminological aspects, where we stated our view that digital currency in broader sense cannot be considered money.

The position of the CNB, respectively its individual representatives can also be demonstrated in a press release entitled *"Cryptocurrencies? Do not help and protect"*. The title of the article basically corresponds to its content, and the author emphasized in it that if digital currency in broader sense were regulated, it would also mean that the state assumes a certain degree of responsibility for it and provides related legal guarantees. For this reason, it considers that regulation is currently undesirable. We completely disagree with this view, because if the state wants to leave this issue unregulated, why is its position already different in the case of taxation of income from digital currency in broader sense transactions? Of course, the fiscal interests of the state are prior than the personal-property interests of individuals, but for this reason too, a certain degree of legal guarantee should be provided as regards trade with them. On the other hand, we agree with the presentation of the opinion that Bitcoin (or other digital currency in broader sense) is a commodity rather than a currency [Cryptocurrencies? Do not help and protect].

The Ministry of Finance of the Czech Republic defines digital currency in broader sense as *"(...) a digital bearer of value"* [Communication from the Ministry of Finance on the accounting and reporting of digital currencies]. This is a very general definition and the Ministry also states that it is an intangible asset that is electronically generated and stored. Naming of digital currency in broader sense as "digital" or "virtual currencies" represents an inconsistency and uncritical takeover of the concept without thinking about its essence, which is, however, also characteristic of other states. Similarly, the Ministry of Finance of the Czech Republic emphasizes, however, that this is an unregulated phenomenon [Communication from the Ministry of Finance on the accounting and reporting of digital currencies].

In comparison with the Slovak Income Tax Act in the conditions of the Czech Republic, Act no. 586/1992 Coll., On income taxes, as amended (hereinafter also referred to as the "Czech Income Tax Act") does not introduce the term virtual currency. However, this concept is remembered by Act no. 235/2004 Coll., On value added tax, as amended. Specifically, these are the provisions regulating securing the tax liability in the situation that the customer pays for the supply of goods or services with digital currency in broader sense.

Regarding the taxation of income, which is related to operations with digital currency in broader sense, we proceed from their understanding in the conditions of the Czech Republic as intangible movables. The subject of the tax is thus the initial provision Art. 3 Sec. 2 of the Czech Income Tax Act, according to which it is income, we quote: *"(...) income, both monetary and non-monetary, also achieved by exchange"* [Act No. 586/1992 Coll., On

income taxes, as amended, Art. 3 Sec. 2]. The subject of the tax is thus changes of digital currency in broader sense to fiat currency, but also changes of digital currency in broader sense to other [Mareš 2018].

Here, too, it is necessary to assess whether it is a one-off income or a regular income, as well as whether or not digital currency in broader sense is included in business assets. The subject of the tax will also be the income achieved by purchasing goods for digital currency in broader sense. In such a case, it will be a non-cash income in accordance with Art. 3 Sec. 2 of the Czech Income Tax Act.

If the taxpayer is a natural person who is not an entrepreneur who earns income from trading in digital currency in broader sense, he shall include this income in the partial tax base as other income[11]. In this regard, we must agree with the opinion of M. Mareš, who states that such cases will be exceptional and rather the situation of trading in digital currency in broader sense on a regular basis will prevail [Mareš 2018].

However, income associated with digital currency in broader sense transactions that are included in business assets will be taxed differently. Such income will be categorized as income from self-employment.

Another important issue is the application of tax expenses that have been made to achieve, secure and maintain taxable income from digital currency in broader sense transactions. Costs can be used either as the purchase price of digital currency in broader sense or as a weighted arithmetic average of the value at which the taxpayer currently purchased the digital currency in broader sense held [Mareš 2018].

We cannot omit issue of the mining of digital currency in broader sense. In this context, the financial authorities are of the opinion that for the purposes of income tax, the procedure should be similar to the acquisition of things by one's own activities. For this reason, the increase in the taxpayer's assets in the form of the acquisition of digital currency in broader sense which he has mined will not be considered as taxable income.

5. Comparative summary of digital currency in broader sense regulation in the Slovak Republic and the Czech Republic and not/application of VAT in the context of the decision-making activity of the Court of Justice of the European Union

Legal regulation in the conditions of Slovakia and the Czech Republic shows many characteristic features. The main thing is that there is a minimum level of legislation in this

[11] For income up to 30 thousand CZK per year, tax exemption can be applied.

area. This is also evidenced by the alibi attitude of individual institutions, but especially the central banks of the states, respectively European Union (hereinafter also referred to as *"the EU"*).

However, the Slovak as well as the Czech legislator took a different approach when we talk about the income tax on dispositions with digital currency in broader sense. In the conditions of the Slovak Republic introduced in a non-conceptual way the concept of virtual currency, respectively sale of virtual currency. The Czech Parliament, on the other hand, has not introduced new terms (if we are talking about income tax, because in the field of VAT the term virtual currency is also used, as we mentioned above). Nevertheless, it is possible to tax this type of income according to the original rules contained in the Czech Income Tax Act. Such a procedure was also possible in accordance with the Slovak Income Tax Act while maintaining the status quo. The fact that it was amended in this context did not improve the legislation. Rather, it was a demonstration of Parliament's will to the public to solve the issue.

In both cases, however, there is no more comprehensive legislation to clarify the legal status of digital currency in broader sense and the related guarantees of entities that purchase digital currency in broader sense. The supervision of the financial market is also closely connected with this issue, while even in the context of the planned changes at the Union level, a change is likely to take place (see below).

We also identified the use of inappropriate terminology in our research. The Slovak, but also the Czech legislator uses the same concept (although in different legal regulations). This term is a virtual currency. This concept has been adopted by central banks as well as other public authorities (see above). The science of financial law, which will point to it, can help to eliminate these shortcomings.

The situation is different with VAT. The field of VAT is fully harmonized within the Member States of the EU [Babčák 2015: 168-174], and therefore this fact must be taken into account. It is therefore not surprising that the situation in this area will be basically the same in Slovakia, but also in the Czech Republic. The support for this issue cannot be found in EU law, but in the relevant case law of the Court of Justice of the EU.

From the decision activity of the Court of Justice of the EU, we must refer in particular to the judgment in Case C-264/14 Hedqvist ECLI:EU:C:2015:718. The significance of this proceedings about prejudicial questions is that the Court of Justice of the EU has ruled that exchange services from fiat currency to digital currency in broader sense and vice

versa are subject to VAT. However, it is a service which is within the meaning of Art. 135 Sec. 1 of Council Directive 2006/112/EC on the common system of VAT exempt.

The cited decision does not apply to all situations that developments in society may bring. An example is non/application of VAT if there is a direct exchange of digital currency in broader sense for goods or services. Will VAT apply in this case? We consider that the situation outlined does not constitute one of the cases of VAT exemption and therefore the application of VAT is not excluded.

6. Recent Union initiatives in the field of digital currency in broader sense regulation

The area of digital currency in broader sense was mainly the domain of individual states, which approached various unilateral regulations. So far, however, the conceptual approach of states and cooperation between them has been absent. This is a natural phenomenon when it comes to direct taxation, but other areas require a degree of cooperation, not least in taxation. The EU institutions have also become aware of this.

"The new legislation on cryptocurrencies, which Brussels is expected to introduce in the autumn, is primarily intended to bring transparency and legal guarantees to the sector" [New legislation for cryptocurrencies: The Union wants to set global standards with its own rules]. We consider this can be an important step, also in view of what we have already stated above, that there is no clarification in the legislation of the legal status of digital currency in broader sense and the related legal guarantees, the existence of which is necessary despite the decentralization of cryptoactive assets.

According to V. Dombrovskis, Vice-President of the European Commission and European Commissioner responsible for financial policy, the main reason for the forthcoming legislation is the lack of legal certainty that hinders the further development of the digital currency in broader sense market. In our opinion, however, a higher degree of regulation does not necessarily lead to an increase in investment in the area, but also to the opposite effect. It is decentralization that is a feature of digital currency in broader sense that makes it attractive to the public, and tightening rules can discourage many. However, this should be the subject of research into other social sciences.

The lack of the current legislation is that, although there are rules in some EU Member States regulating digital currency in broader sense, technological developments in this area and the low flexibility of such legal norms mean that some digital currency in broader sense is still out of regulation.

Another existing problem is the fragmentation of national rules. This has a negative effect on trade in the single internal market, which also has an impact on the realization of the individual freedoms guaranteed by EU primary law.

New EU legislation is due to be introduced in autumn 2020. According to EU representatives, the legal regulation of digital currency in broader sense should be addressable, and supervision should be introduced. The EU also plans to include digital currency in broader sense among financial instruments. At present, however, it is not entirely clear how specifically the EU wants to meet these ambitious goals.

The fact that the EU plans to prepare quality legislation is also evidenced by the fact that preparations for it take more than a year. For this purpose, a public debate has also begun and "digital giants" such as Google and Paypal have been involved in the processes. The result of this effort is a study called *"Crypto-assets. Key developments, regulatory concerns and responses"*.

However, we see a shift in the attitude of the EU and its individual institutions in the sense of digital currency in broader sense as a negative phenomenon of the time, with only negative phenomena associated with it, such as money laundering and terrorist financing. This problem does not need to be downplayed, but the attention of the whole world, even in terms of legislation, has focused on these very facts.

In view of the above, we can state that the hypothesis was confirmed - the legal regulation of digital currency in broader sense in selected Member States of the European Union is not sufficient. However, we must add with one breath that, given the recent initiative being taken by the EU institutions, the EU regulation may have a positive effect on changing the current legal situation, which we have currently described as insufficient.

7. Conclusion

In conclusion to this paper, we will try to summarize the partial conclusions that we have reached in relation to the established hypotheses. In the interest of clarity, we will comment on them in particular:

Ad 1) the naming of digital currency in broader sense as a currency is incorrect given the existing knowledge of financial law science:

The phenomenon discussed in this article is described in different ways. In most cases, this is a non-critical acceptance and a literal translation from English. However, the concept of digital currency in broader sense as a "currency" is inadmissible by reference to the

currency features and characteristics of digital currency in broader sense. In our opinion, it is also incorrect to name them as money (or even electronic money) or as a financial instrument. We will only be able to consider the possibility of naming them as a financial instrument once the relevant legislation has been adopted at EU level to give them this status, as we have pointed out in the text above. At present, we consider digital currency in broader sense to be the most appropriate concept. The adjective "digital" belongs to them because it is a digital bearer of values.

Ad 2) the legal regulation of digital currency in broader sense in selected Member States of the European Union is not sufficient:

In this article, the authors' attention was focused on the legal regulation of Slovakia and the Czech Republic. The reasons for the choice of these states were, on the one hand, historical contexts (for a long time they formed one state), proximity to legislation, geographical proximity, but also a similar degree of involvement in international integration groups, such as EU. By analysing the current legislation, we have reached several common but also differentiating features. However, we must state that the second hypothesis has been confirmed to us, and therefore, in our opinion, the current legislation is not sufficient. The position of digital currency in broader sense and legal guarantees in relation to individuals are issues that need to be solved. However, the legislation focuses more on the taxation of digital currency in broader sense income, which is natural. We believe that even in the context of the outlined recent initiatives at EU level, the issues will be legally clarified.

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