

***Solovyov Oleg Gennadyevich***

candidate of juridical sciences, associate professor  
FSBEI of HE "P.G. Demidov Yaroslavl State University"

Yaroslavl, Yaroslavl region

***Malakhov Mikhail Alexandrovich***

intern

ANO "Yaroslavl Center for Economic and Tax Education"

Yaroslavl, Yaroslavl region

## **FEATURES OF LEGAL REGULATION OF CRYPTOCURRENCY TURNOVER IN FOREIGN COUNTRIES**

***Abstract:*** the article examines the legal regimes of some developed countries in the field of digital assets functioning, examines the positive and negative aspects of regulatory regulation of operations with cryptocurrency. The authors point out the lack of a unified approach to determining the legal status of digital assets in various jurisdictions, and note the need to develop a consolidated legal position in countering the criminal turnover of cryptocurrency.

***Keywords:*** economic activity, financial assets, digital assets, virtual currency, payment system, cryptocurrency, blockchain, bitcoin, legal operations, criminal operations.

***Соловьев Олег Геннадиевич***

канд. юрид. наук, доцент

ФГБОУ ВО «Ярославский государственный

университет им. П.Г. Демидова»

г. Ярославль, Ярославская область

***Малахов Михаил Александрович***

стажер

АНО «Ярославский Центр экономического и налогового просвещения»

г. Ярославль, Ярославская область

## ОСОБЕННОСТИ ПРАВОВОГО РЕГУЛИРОВАНИЯ ОБОРОТА КРИПТОВАЛЮТЫ В ЗАРУБЕЖНЫХ СТРАНАХ

***Аннотация:** в статье исследуются правовые режимы некоторых развитых стран в сфере функционирования цифровых активов, рассматриваются положительные и отрицательные аспекты нормативного регулирования операций с криптовалютой. Авторы указывают на отсутствие единого подхода к определению юридического статуса цифровых активов в различных юрисдикциях, отмечают необходимость выработки консолидированной правовой позиции в противодействии криминальному обороту криптовалюты.*

***Ключевые слова:** экономическая деятельность, финансовые активы, цифровые активы, виртуальная валюта, платежная система, криптовалюта, блокчейн, биткойн, легальные операции, криминальные операции.*

In our opinion, the experience of a foreign legislator in the field of legal regulation of digital assets is interesting. Foreign lawyers have not spared such a promising direction in the economy as a virtual currency. For example, in the UK, the legal field is most suitable for businesses using cryptocurrencies. The Government of the United Kingdom finances startups using virtual currency. A digital asset for a legislator in the UK is also not officially recognized as monetary funds and cannot be expressed in the national currency [1, p. 14].

The European Union has stated that the traditional regulation of the economy is not applicable to cryptocurrencies. The digital asset was defined as a convertible decentralized virtual currency. A digital asset is more represented as an intangible asset or commodity, rather than as a currency or money, which contributes to its unhindered taxation. In addition, it is proposed to introduce mandatory registration or licensing of the activities of cryptocurrency exchanges [2, p. 20]. We offer to get acquainted with the experience of the European Union in more detail on the example of the legal regulation of cryptocurrencies in Germany. Having analyzed the technical nature of the cryptocurrency, the German Federal Financial Supervision Authority defined the virtual currency as a financial instrument back in 2011 [3, p. 14]. Although

cryptocurrencies are a certain unit of account, they are also not issued by the state, which defines them as a special form of financial instruments that does not fall under the legal regulation of Germany. In accordance with the legislation of the Federal Republic of Germany, cryptocurrency cannot be recognized as electronic money, since the former are expressed in monetary value and are stored on a carrier with a magnetic chip. With their help, a person can conduct financial transactions, but not with the help of cryptocurrency. At the same time, tokens (which the Russian legislator in the same period refers to the types of digital assets, like cryptocurrency) have great functionality. So, a token can be classified as a valuable stock and even shares [1, p. 14].

The Constitution of the United States of America establishes the federal structure of the state, so public relations are regulated by the law of the states. The state of California was the first to allow the use of cryptocurrency. American judicial practice is contradictory. So, in Texas, the cryptocurrency was recognized as a monetary means, but in the same period in Miami, the court did not recognize bitcoin as a currency, which led to the dismissal of charges. In September, the American state Commission, which manages exchange futures, for the first time equated bitcoin to exchange-traded goods [4, p. 56; 6, p. 81]. In Sweden, digital assets are recognized as a currency and can be not only the subject of transactions for the transfer of property to ownership, loans, collateral, but also be a means of settlement. The turnover of digital assets between individuals is carried out in a free form. The criminal legislation does not contain special norms establishing criminal liability for violation of property relations related to the turnover of digital assets [5, p. 119].

Of course, the United States is a country where digital assets have become widespread. Cryptocurrencies in the United States are recognized as digital assets. Activities related to cryptocurrencies are carried out by a number of departments that regulate it, at the same time, the uniform determination of the status of digital assets (cryptocurrencies) not worked out. Criminal liability for crimes in the field of their turnover has not been established [6, p. 81].

In Switzerland, Finland and Malta, relevant laws have been adopted, a legal framework has been created that allows you to own and use digital assets as financial

assets, and the most comfortable conditions have been created for owners of digital assets [6, p. 80].

In China (PRC), since the use of digital assets, the state has not shown any legal reaction. At the same time, the government of the country saw only the risks of spreading such crimes as laundering of criminal proceeds, sale of narcotic drugs, and bribery in the development of the turnover of digital assets. Then the situation began to change. Since 2017, regulatory regulation of the turnover of digital assets has been introduced, as well as control of the turnover by Chinese financial institutions is being established [7].

Japan, like many countries, has gone from the absence of any regulation of the turnover of digital assets to understanding the need for state and legal support for these processes. In accordance with the legislation of Japan in 2017, a digital asset is recognized as both a commodity and a legal payment method. Thus, this state has integrated digital assets into the system of bank settlements between individuals and organizations. At the same time, digital assets are not a monetary unit of Japan, but have a status equivalent to a fiat currency. The above status allows them to be the subject of many civil law transactions. They can not only be bought and sold, but also used as a loan, be a means of settlement, be used as a deposit and penalty, be the subject of conversion, have an exchange rate, etc. Transactions with digital assets between individuals are not prohibited and can be made without restrictions. At the same time, certain requirements apply to the activities of the organizers of the auction, despite a rather liberal approach to the conclusion of the transactions themselves. Thus, it provides for mandatory registration of any digital asset issuance platforms with the Financial Services Agency of Japan (FSA) and subsequent accountability to it [6, p. 81].

In the Republic of Kazakhstan, digital assets are recognized as an object of civil rights (paragraph 2 of Article 115 of the Civil Code of the Republic of Kazakhstan). According to paragraph 55–1 of Article 1 of the Law of the Republic of Kazakhstan dated 24.11.2015 N 418-V «On Informatization», a digital asset is understood as «property created in electronic digital form using cryptography and computer computing, which is not a financial instrument, as well as an electronic digital form of

certification of property rights». The reference in the legal definition of digital assets to the use of cryptography means indicates that this term is designed for crypto assets and does not cover the entire variety of new digital objects of property turnover [8].

Summing up, it should be noted that the legal status of digital assets in most countries of the world is not defined and, despite the fact that digital assets are not recognized as legal tender, but are an exchange asset, they can be used as a means of payment, a means of exchange, exchange and gift. In most States, measures are being taken to counteract crimes committed with or against digital assets. The existing legal framework in the field of cyberspace and countering cybercrime does not fully meet modern requirements and requires the consolidation of the world community to adopt common rules of the game both in the daily use of digital assets and in countering crimes with their criminal turnover.

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