BIOGRAPHY

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Since December 2012 he is a lecturer in the Department of Law, Faculty of Economics, University of Elbasan, covering the subjects of Commercial Law, International Commercial Law and Public Transport Law. From the academic year 2015-16 he serves with the position of Professor, after obtaining the title of Assoc. Prof. in April 2015. Accredited as an external researcher in the Department of Legal Sciences "A. Cicu", University of Bologna (scientific collaboration with Prof. Stefano Zunarelli). The main field of study is focused on business law, studies of EU legislation, competition and law of obligations.

Graduated from the University of Bologna in 2009, with the result 110/110 magna cum laude, he defended the thesis "Le Autorità creditizienel sistema finanziari oalbanese" (Business Law). He continued his academic career with doctoral studies in European Transport Law at the University of Bologna where he defended the the thesis on "Le gestioniaeroportuali e deiserviziaeroportualineldirittoeuropeo e nazionale". During this period he participated in several research projects. He also spent a 6-month research period at the Institute of Air and Space Law, Leiden University, where he conducted research on cooperation and agreements between airline and airport operators and competition issues. Good knowledge of Italian legislation. His doctoral studies were funded by the Albanian government program of Excellence Fund.

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Lawyer since 2013 and currently exercises professional activity as a lawyer and consultant, due to the field of expertise in Business Law, mainly deals with negotiation, sale and purchase of shares, restructuring procedures, bankruptcy proceedings, consulting, drafting contracts, statutes, etc., as well as litigation.

Abstract

The cryptocurrency market, in the last decade, is getting a boost and as such it also needs a precise legal regulation for the exercise of activities as a profitable activity. In many countries there is a need of regulation of production, storage and display of their goods, which in some cases also capture the money values translated and have exchange rates accepted by the free market.

This paper aims to analyze the legal aspects of regulation of cryptocurrency, or in other words the regulation of digital tokens and/or virtual currency, licensing, monitoring and subjects that exercise the activity of analysis, trading and storage of digital tokens and/or virtual currencies, of digital agents, innovative providers and automated collective investment ventures.

Through this paper, the goal is to analyze the law no. 66 of 2020 "For Financial Markets Based On Distributed Registry Technology", which makes Albania one of the States that adopts a certain regulation in the field of cryptocurrencies.

The law with its 107 articles and with the by-laws, which are in process, seeks to regulate the licensing procedure and the competent authorities for issuing it. The law regulate the responsibility of digital agents, the responsibility of offering tokens in the market, the stock exchanges, innovative services and their providers, portfolios managed for third parties, automated collective investment undertakings, performance related to their actions, manipulations, liquidation of companies that enjoy a license to operate in the market and sanctions against violators of the conditions of the license.

Key words: Cryptocurrencies, Albanian legislation, Regulation, EU legislation.

LEGAL REGULATION OF VIRTUAL CURRENCIES IN ALBANIA (CRYPTOCURRENCIES) IN THE LIGHT OF EU INTEGRATION PROCESS AND ACQUIS ADOPTION[1]

Introduction

Cryptocurrency is a currency that exists virtually or digitally and uses cryptography to secure transactions. The currency is usually protected by encryption, a factor that makes it nearly impossible to double spend or falsification. Almost all cryptocurrencies are produced through blockchain technology, which is a financial book implemented over a distributed computer network/protocol. There is no doubt that these currencies are a useful innovation that facilitates easier and faster evaluation of financial services and products, but the main challenge lies in creating them as an alternative means of value transfer and investment, which gives space to the practices of illegal money laundering.

The legal status involving cryptocurrency varies substantially from country to country. The use of the currency is permitted in most developed countries, including the United Kingdom, Canada, and the United States.

In Albania, cryptos do not yet constitute a legal currency, they have not been issued or guaranteed by a state entity. In an effort to arrange financial markets based on distributed book technology, which includes virtual currencies, digital tokens of services, payments, asset titles, as well as DLT exchanges, law no. 66/2020 has been approved.

1. Types of virtual currencies

The term "Virtual Currency" is used interchangeably with the term "cryptocurrency". However, the terminology used by the Financial Task Force and the ECB, the two concepts are not the same, but rather,

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cryptocurrencies are a subset of Virtual Currencies. A "Virtual Currency" is a digital representation of value that is traded digitally and has one or more of the following functions: a medium of exchange, a unit of account, and a store of value.

Virtual currencies are divided into two: convertible and non-convertible. The latter are also referred to as "closed" virtual currencies, which are "intended to be specific to a certain virtual domain or world" and, according to their terms of use, cannot be exchanged for the classic national currency.

Convertible virtual currencies can be further divided into centralized and decentralized virtual currencies. Centralized convertible virtual currencies have a single governing authority, so, a third party that controls the currency system or network by issuing and redeeming the currency, setting rules for its use and maintaining a central book of payments.

A distinction has been made in the academic literature between 'currency' and 'tokens'. From this perspective, a 'currency' refers to a unit that is 'issued' on a separate blockchain and is therefore inseparable from the protocol framework. On the other hand, a "token" is generally associated with a specific "smart contract" that operates on a blockchain protocol to which the token must conform and cannot exist outside of such protocol[2].

2. Reasons for the regulation, other legislative areas that are affected and the process of the legislative debate for the adoption of law no. 66/2020

With the approval of the law "On financial markets based on distributed book technology", Albania has become one of the first countries to take a bold step towards the legal regulation of a new market by legitimizing cryptocurrencies.

In this way, Albania becomes one of the few countries in Europe that legalizes and regulates the legal framework for virtual currencies. So far, only two countries in Europe have taken steps to implement specific legislation on virtual assets, which are not covered by the existing framework of the European Union. Thus, Malta has a law on virtual assets in force, France passed the law in April 2019.

The law aims to regulates, prohibit abuse and impose penalties in relation to virtual activities and related services, highlighting that regulation is an

2. See Ke Wu, Spencer Wheatley, Didier Sornette, 'Classification of crypto-coins and tokens from the dynamics of their power law capitalisation distributions' (2018)

option being embraced in many countries for control and governance[3]. Digital tokens and virtual currencies are a type of virtual asset, completely dependent on distributed ledger technology ("Distributed Ledger Technology" - DLT), which give the user beneficial, ownership rights or can be used as a payment instrument or utilitarian tool, in the process of purchasing products or services, is explained in the relation[4].

This activity is regulated as it is considered one of the main problems related to money laundering by seeking to regulate the licensing of trading companies and secure transaction monitoring systems, so, public supervision. Recently, the Parliament in its work has emphasized the reports of MONEYVAL, which requires additional measures from the risk of cryptocurrencies for money laundering.

However, the approval of the law in the Parliament, despite the positive judgment of the relevant parliamentary commissions and the technical assistance of foreign experts, did not pass without obstacles and criticslike the denied approval made to this law by the President of the Republic[5]. In the Decree on the return of the law in Parliament, the President argues that this law increases the risk of illegal transactions, money laundering and fiscal evasion[67]. Money laundering and terrorist activity are two of the biggest concerns related to virtual currency because the implication of criminal activity and their transactions cannot be tracked by the government. Thus, the approval of the legal framework and the immediate start of its implementation, without the proper preparation of the monitoring and supervisory bodies, carries the obvious risk of creating spaces for the use of such financial

3. https: //www. monitor. al/nga-1-shtatori-hyn-ne-fuqi-ligji-qe-legalizon-kriptomonedhat-shqiperia-e-treta-ne-europe-qe-i-rregullon/

4. To make the best use of the benefits that this technology offers, but also to address a number of possible risks, such as the creation of fraudulent schemes, or unauthorized schemes to offer virtual assets, the risk of using virtual assets to launder money, as well as market manipulation, a complete legal framework is needed in order to regulate this activity.

5. https: //liberale. al/ligji-i-ri-shqiperia-do-te-taksoje-te-ardhurat-qe-rrjedhin-nga-kriptomonedhat/

6. https: //www. monitor. al/meta-kthen-ligjin-qe-zyrtarizon-kriptomonedhat-krijon-hapesire-per-pastrim-parash/

7. http: //president. al/wp-content/uploads/2020/06/Arsyet-per-kthim-te-ligjit-66-2020. pdf In particular are problematic the articles 3, 9, 10, 13, 14, 15, 29, 36, 44, 45, 49, 51, 63, 70, 77, 82, 83, 88, 90, 92, 100, 105 of the law which must be rewrite regarding the President.

markets also by crime, without effective possibilities of prevention, tracking and punishment. In addition, concern is expressed that the risks defined in the decree may bring serious social and economic consequences affecting other areas such as the stability of the national currency or the exchange rate.

The problems that the law seeks to address are mainly related to the licensing of entities and the taxation of these transactions, in the spirit of regulation provided by European legislation in this field. Thus, the hope is that the licensing will be of interest to foreign exchange offices to enter Albanian market. However, there is the problem that the strict supervision conditions may discourage the entities interested in being licensed in the market by the AMF (Financial Supervisory Authority), which is in charge of direct supervision and for issuing the relevant by-laws. Also, the focus is on the relevant changes in the tax legislation with the aim of taxing these transactions, where a draft law on taxes is being prepared which foresees the taxation of income from these transactions starting from 2023.

In a discussion "*de lege data*", we expect to see the effectiveness of this legal regulation in practice. This regulation of these financial markets comes after the negative experiences that Albania has gone through, especially remembering the pyramid firms and the losses of the savings of investors of the general public, which came as a result of the malfunctioning of the relevant supervisingstructures and unclear legislation.

In Albania, according to the Chainanalysis platform for the geography of cryptocurrencies, about 28. 000 portfolio hold digital assets worth $6. 2 billion, representing almost 1% of the population. In the region, only Serbia and Kosovo are rankedbetter[8]. The full effectiveness of the law will be perceived with the issuance of by-laws, which, according to the transitional provisions of the law, should have been issued at the end of 2021[9].

2.1. *The regulation provided by law no. 66/2020 regarding virtual currencies*

With the law no. 66 of 21. 05. 2020 the Parliament has regulated financial markets that are based on distributed ledgertechnology, affecting conspicuously the law on financial markets and tax legislation in Albania, simultaneously. This law regulates all legal aspects for subjects that carry

8. https: //top-channel. tv/2022/02/14/ligji-per-kriptomonedhat-nuk-eshte-i-zbatueshem-sepse-nuk-ka-akte-nenligjore/
9. Article 106 of law no. 66/2020

out activities in digital payment instruments.

The object of this law is the regulation of the issuance of digital tokens and/or virtual currencies, the licensing, monitoring and supervision of entities that exercise the activity of distribution, trading and storage of digital tokens and/or virtual currencies, of the agent of digital tokens, providers of innovative services and automated collective investment entrepreneurship.

What stands out in the general provisions is an article 3 with 82 points which provide the definitions for the terms that will be used in this law. This derives from the complexity of the technology field and the difficulty of legal regulation of all the processes involved in the issuance and trading of digital currencies. It is worth mentioning that with its length, this article is one of the longest provisions of legal definitions in the entire Albanian legislative panorama and beyond. Many of the notions make a reference to other laws such as tax legislation, the law on traders and companies commercial, Labor Code, etc.

Very interesting is the definition of tokens where:

- "Digital asset token" is any digital token, which is not included in any of the following categories:

i. digital payment token;

ii. digital title token;

iii. digital services token.

- "Digital payment token" is any digital token, which is used as a medium of exchange, payment instrument, unit of account or store of value and which is not included in any of the following categories:

i. digital token of titles; and

ii. digital services token.

- "Digital token of titles" means digital representations of value, similar to other securities defined, according to the legislation in force for the capital markets, that are based on block-chain technology, confirmed by a competent national authority, when they meet the criteria of the following:

a) they are freely transferable;

b) they give the owner some monetary rights or property rights over the project, or if it has profit-sharing features, or a predetermined right, or they give the owner decisive power in the issuer's project.

The final definition for the categories of tokens is provided by point 23 of Article 3, which defines that "Each digital token, which combines

the characteristics of the digital token of titles with one or more other categories of digital tokens, will be considered as a digital token of titles, in the sense of this law", so, considering it as title token. The law also defines the notion of "digital token" which "is a digital marker, which:

1) is completely dependent on DLT technology; and 2) is exclusively included in one of the digital token categories listed below:

a) digital token of payments;
b) digital title token.
c) digital token of services;
e) digital token of assets".

Also, it is determined that the digital token of services "is a digital token, which: a) enables access to an application, service or product; and b) does not provide any value, service or applicability outside the DLT platform on which it is issued. "

Law defines DLT as "Distributed Ledger Technology" which "is a decentralized database in which information and/or data are securely recorded, consensually verified, and synchronously distributed through a network of multiple nodes or other technical means, in accordance with the definition of the innovative technology agreement and where all copies of the distributed database are considered original".

Article 3 clearly defines technical notions and concepts such as ICO (Initial Digital Token Offering), Smart Contract (it is a technological agreement, fundamentally dependent or related to a DLT, which contains a set of rules and conditions, which pre-defined and automatically self-executing reaction movements in case of fulfillment of the conditions defined therein. Smart contracts fall under the definition of innovative technology agreement, within the meaning of this law.), STO, etc.

Summarily, the difficult concept of "virtual currency" is defined as "one of the virtual resources that means the digital representation of value, which is used as a means of exchange, payment instrument, unit of calculation or reserve of value and that: i. is not a digital token, as defined in this law; ii. is not issued or guaranteed by a state body; iii. it is not necessarily linked to a regulated currency; iv. it is not a currency and therefore has no legal tender, but has been accepted by natural or legal persons as a medium of exchange; c. issued on a special distributed ledger technology platform; and can be transferred, deposited, traded electronically. "

2.2. *Regulation of public law in digital token markets*.

The law, in article 4, after defining the licenses for DTL agent, which is issued by the AMF, and DTL exchange, categorizes for the latter the types of licenses in A, B, C which are issued by the AMF and AKSHI (National Agency for ICT services). Also, the license of the provider of innovative services is issued, which is issued by AKSHI (without the involvement of a TD agent) to a legal person after meeting the general conditions and special criteria, provided in articles 9 and 63, of the law; the third-party portfolio custodian license, issued by the AMF and AKSHI for a legal entity, after meeting the general conditions and special criteria provided for in articles 9 and 77 of this law, as well as the business license of automated collective investments DT, issued by AKSHI for a collective investment undertaking, after meeting the general conditions and special criteria, provided in articles 9 and 82 of the law.

Licenses issued in this way by the competent authorities require a strong supervision and serious coordination between entities, agencies and independent authorities such as AKSHI, AMF and relevant ministries for the correct assessment of financial, technical and regulatory qualities.

The law, in article 9 and 10, is exhaustive for the way of submitting the application and the documents that must be submitted for this purpose. The provision is extended and detailed on the steps to be followed by applicants.

Entities that obtain a license based on this law have the obligation to pay an annual fee, to avoid conflict of interest and to exercise the activity avoiding money laundering and financing of terrorism. For these reasons, the licensee is responsible with a direct responsibility and has the duty to exercise appropriate and/or enhanced vigilance towards customers, in accordance with the legislation in force for the prevention of money laundering and the financing of terrorism and other laws in force, to create a secure system for monitoring and reporting transactions, in accordance with the law "On the prevention of money laundering and financing of terrorism" and other laws in force, to perform a risk assessment towards customers and review it periodically, to report suspicious transactions to the relevant authority, in accordance with the law "On the prevention of money laundering and the financing of terrorism" and to implement any other obligations arising from the law "On the prevention of money laundering and the financing of terrorism" " for virtual tool service providers.

The law oblige for supervisory powers and obligation for direct and continuous information for state institutions such as AMF and AKSHI. Similar to the regulation of other financial markets, this law also regulates and sanctions market abuses, defining in Chapter IX the prohibition of market abuse. The two forms of abuse are regulated separately by the law: market manipulation is regulated by articles 87 et seq. of the law; trading based on privileged information is regulated by the following articles 92.

In relation to market manipulation, illegal behaviors that create false markets are regulated and transactions that aim to increase and decrease the value of TD in the regulated market or offers that aim to determine and fix the price of tokens in the market are prohibited. These actions will be considered criminal offenses in the sense of the Criminal Code. The law also oblige DLT exchanges, platforms and brokers with an obligation to report such cases and to inform the AMF "based on the information to which they have access on cases which they reasonably suspect constitute market abuse".

The second case that is prohibited by law and constitutes abuse are cases of trading based on privileged information. According to Article 92, at the moment of ascertaining the unauthorized use of privileged information, the authorities must, in addition to the administrative assessment (rating), also assess (rate) whether this dissemination of information may constitute a criminal offense and refer them to law enforcement bodies such as the Prosecutor's Office. The information must be of a concrete and non-public nature and from persons who have the duty to maintain it or execute the order for the sale and purchase of tokens. The necessary verifications are carried out by the supervisory authorities in an in-depth administrative investigation according to Article 93.

In chapter III, IV, the legislator clearly regulates the criteria that must be fulfilled by the agents of the Digital Token, where a criterion that is not very easy to fulfill, such as the available initial capital of 18, 000, 000 Albanian leke or an equivalent bank guarantee, stands out. Secondly, the way of offering digital tokens or virtual currencies in the market is determined. Supervision, as stated above, is exercised by the AMF. Article 31 clearly defines the duties of TD agents in front of subjects. Chapter IV defines the methods of bidding and the launch of ICO or STO, the relevant conditions, the content of the presentation of the offer (whitepaper), the way of submitting the request for authorization to the AMF and/or AKSHI, as

well as the powers of the latter in relation by granting authorization for an STO or ICO. The law requires a supervision and information on the part of the issuers, the same as the provisions in the laws on collective investments and the law on capital markets. The purpose of correct regulation of virtual currency in this case is public information and protection of the general public who may be buyers in this case. Thus, according to Article 36, the issuer of these tokens must exercise its activity with integrity and honesty, treat all token buyers fairly and not abusively, have set up prevention systems to detect the risk of money laundering, have financial resources of maintain sufficient technical security protocols. All these obligations are evaluated by TD agents, which has an important role in evaluating the conditions for the launch of STOs and ICOs.

This places this market in the same or similar conditions with the obligations that operators have in classic financial markets or banking operators. The similarities in the controlling, supervisory and regulatory processes are many. Even the authority that supervises it is the same, AMF, although we also have the primary role of AKSHI for the technological and security part.

The latter have a long list of powers, beyond those defined for supervision as a whole as a functional task, defined in Article 43 of Law no. 66/2020. Thus, the AMF maintains direct contact with the TD agent and the issuer in order to obtain information about the activity during the issuance of offers, may request changes in information, additional information, changes to the prospectus, request further clarifications regarding the offer, etc. If the supervisory authority is not convinced after a comprehensive review of the clarifications, it may suspend the STO or ICO if it has reasonable suspicions that the provisions of the law have been violated, immediately stop it if there is evidence to prove the violation of the provisions of the law. In any case, the supervisory authorities have the power to reject the authorization if the documentation is insufficient or if the conditions for its issuance are not met by the subject or if the request fee has not been paid. Of special importance in the new law is the provision of the legal regulation of DLT exchanges, which can be licensed by the AMF and AKSHI according to the provisions of articles 50 et seq. of law no. 66/2020. Thus, any legal entity that wants to exercise the activity as a DLT exchange, in accordance with this law, must have the relevant license issued by the AMF and AKSHI, as well as be registered in the register of

DLT exchanges licensed in accordance with Article 24 and can perform this activity as long as the license is valid.

In addition to the general criteria that must be met for TD trading, obtaining a license for such an exchange must also meet some specific criteria related to the clear definition of the internal rules of operation, have and implement a management program risk, to have up-to-date internal procedures and systems and many technological criteria that will enable its regular operation while protecting investors of the general public for the transactions that take place on the platform. The mode of operation of the DLT stock exchange is defined in Article 53 of the law, which is a long article and defines in detail all the circumstances, conditions and guarantees of how actions take place in the stock market. The stock exchange is directly responsible to customers for all damages caused as a result of violations of the legal provisions of its operation. Scholarships are categorized into A, B, C.

Of particular interest is the regulation of different actors such as providers of innovative services in Chapter VI and the regulation of innovative technology agreements. Also, the law provides a complete and lengthy regulation regarding the portfolio custodian for third parties who must be licensed by the Bank of Albania according to chapter VII. In relation to these subjects, AKSHI has extended powers of supervision and certification.

The figure of the custodian of third-party portfolios is regulated in Chapter VII from Articles 76 and following. These operators are also subject to licensing by the Bank of Albania. Their licensing is done in fulfillment of the general criteria according to law 66/2020 defined in its article 9, but article 77 defines the special conditions for licensing these entities in relation to taking measures for risk management, taking measures for the safety of the establishment of a stable internal system, unbundling of own funds from those of investor clients, minimum initial capital of 18, 000, 000 Albanian lek, and that it has taken measures for cyber security.

Legal regulation, with the aim of closing the number of actors operating in the DLT markets, also receives the notion of automated collective enterprises DT. They are legal entities or pools of assets created for the purpose of operating in the DLT markets as collective investments. These investment funds must have the relevant licenses to operate in the markets where TDs are traded. While non-automated enterprises are regulated by the law on enterprises and collective investments and their regulation falls outside the

scope of application of law no. 66/2020. They must fulfill the general criteria to be part of the markets and operate in them, as well as the special criteria defined in Article 82, especially important are the licensing criteria from AKSHI and the certification of the innovative technology agreement or the computerized robotic consulting document. The legal responsibility of these enterprises towards their customers is complete for all the damages they have suffered as a result of the violation of the legal provisions of law no. 66/2020, by-laws and the prospectus presented to the client by the enterprise itself.

These are the actors who operate in the DLT markets according to the definition of this law and it is noted that the above-mentioned norms create new legal notions regulated by law and clearly define their obligations to clients and their legal responsibility in relation to the non-correct application of the law.

The absence of additional elements of guarantee such as the creation or obligation of a professional insurance contract is noted, but the granting of licenses is limited only to the initial monetary amounts that these subjects must have in their capacity or available as their capital at the time of licensing. It remains to be seen in the future during the application how the cases of violation of the law and abuses will be handled and how protected the customers will be from the misconduct of the operators in the market.

Currently, we still have no cases who have submitted requests to be licensed or to open TD markets or exchanges.

2.3. *The issuance of by-laws of the AMF pursuant to law no. 66/2020.*

At the time of the approval of the law no. 66/2020 and determining the entry into force on September 1, 2020, article 106 of the law provides that the competent supervisory authorities must be given a 6-month deadline to issue all bylaws.

The issuance of by-laws has been continuously followed with interest, and a year ago the first drafts were released for public consultation by the AMF. In the drafts published on the official website of the Authority, it is determined that entities that will exercise their activity in financial markets based on distributed ledger technology must ensure a sufficient level of capital. More specifically, according to the draft regulations, each digital token agent, TD must prove that it has a minimum initial capital of 18 million Albanian currency (Lek) available through a document issued to one of the

second-tier banks in the country. Together with this document, the subject must also attach the application for obtaining the license from the AMF. The highest is the value of the minimum initial capital of the DLT stock exchange where digital tokens of services, payments or assets can be listed or traded, which is divided into several categories which is licensed by the AMF and AKSHI. For category A it is estimated at 20 million Albanian currency (Lek), for category B the initial capital must be 60 million Albanian currency (Lek) and for category C its value reaches 90 million Albanian currency (Lek). While for the custodian of the third-party portfolio, which is a legal entity that provides custody services of private cryptographic keys on behalf of clients, the regulation proposes an initial capital of 18 million Albanian currency(Lek) with a license approved by the Authority and AKSHI.

Currently, regarding the legal and supervisory aspects, the AMF has approved only two regulations, namely Regulation 210 of 25. 11. 2021 "On the adequacy of the capital of entities operating in financial markets based on distributed ledger technology" and Regulation 211 of 25. 11. 2021 "On the licensing of subjects that exercise the activity as a digital token agent".

The regulation on capital adequacy is simple in construction and regulates only the determination of quantitative capital criteria for TD agent, DLT exchange and portfolio custodians, reporting obligations of entities, determination of own funds, expenses of fixed entities or liquidity requirements of own funds held by operators.

Regulation 211 sets out the specific rules and procedures for how entities are licensed and the accompanying application documents that digital token agents must file. The regulation is accompanied in annexes with the relevant standardized forms for application for TD agent. At the moment we write, we are still waiting for the issuance of other arrangements by the supervisory authorities, regardless of the fact that it is almost two years since the entry into force of the law or over a year since the expiration of the deadline to issue these arrangements.

2.4. *Cryptocurrencies and EU legislation*

A normal question about cryptocurrencies is whether they are legal or not. The inclusion of a definition of virtual currencies (referring to cryptocurrencies) contained in 5AMLD[10] and the recent statements given by EU regulatory bodies illustrate that cryptocurrencies are in fact legal in

10. 5th Anti-money laundering directive

the EU. Furthermore, no EU member state has attempted to impose a ban or restrict their use (as has been done in non-EU countries such as China and India).

Ultimately, since the legal definition requires regulation, it is important to understand how cryptocurrencies are defined under EU legislation[11].

Within the Eurozone, only the Euro has the status of legal tender. EU member states that are not part of the Eurozone are similarly regulated. However, contracting parties in the EU remain free to use other currencies. And not just euros, like sterling or the US dollar, but also any kind of privately issued money, like local exchange trading systems or even cryptocurrencies. Therefore, states in the EU can use cryptocurrencies as a form of private money. In fact, the ABE has defined cryptocurrencies as "a form of unregulated digital money that is not issued or guaranteed by a central bank and that can act as means of payment"[12].

However, this designation only referred to when there was only the "bitcoin model" on the market, which was a pure means of payment, unlike most of bitcoin's successors. To determine whether a cryptocurrency meets the criteria for private money, we must turn to the economic understanding of money shared by the ECB and the German Bundesbank. Within this perspective, money functions as: a medium of exchange, a unit of account, and a store of value. The ECB had stated that bitcoin does not 'fulfill the 'store of value' function of money, the same argument can be extended to other cryptocurrencies. Consequently, the use of the nomenclature "cryptocurrency" has been deemed a misnomer because it refers to the word "currency", a connection which, upon close examination, is "not guaranteed"[13]. Such a conclusion has led some legislators and regulatory bodies to refer to these new technologies under more neutral names such as "crypto-assets" and "crypto-tokens".

The ECB has defined cryptocurrency as a type of 'speculative asset', which individuals can "play to make a profit, but with the risk that [they] will lose their investment"[14]. The reason for this argument is the ability of

11. R. Houben, A. Snyers, Cryptocurrencies and blockchain, Legal context and implications for finantial crime, money laundering and tax evasion, 2018, https: //www. europarl. europa. eu/committees/en/supporting-analyses/sa-highlights
12. EBA, 'Warning to consumer on virtual currencies' (12 December 2013)
13. Report of ECB, 2012
14. ECB, What is Bitcoin?, February 2018

cryptocurrencies to be exchanged for national currencies such as the euro or other cryptocurrencies, and the high volatility associated with the latter.

In light of the above, it should be understood that while the 5DAML is the only EU legislation that has harmonized the specific treatment of cryptocurrencies, further guidance is also provided by EU legislation in other legal areas. A number of international institutions and national regulatory bodies have issued statements and guidance explaining the applicability or otherwise of existing EU law and national legislation to cryptocurrencies. Additionally, individual member states have taken the initiative to adopt national legislation in an attempt to regulate cryptocurrencies.

EU legislation regulates certain aspects and does not provide a comprehensive regulation of the field. In a fragmentary way, the regulation offered by the EU is more interested in the field of preventing money laundering and the fight against terrorism or the taxation of these activities. However, an intervention at Directive level, guiding the uniform regulation of TD markets, would be satisfactory. Full harmonization in this field is still to be achieved since it is the member states themselves that are not yet intervening with national legislation for a legal regulation of the markets or transactions of these digital currencies.

Conclusions

Law 66/2020, as analyzed above, constitutes an innovation not only in Albanian legislation, but also in the legal systems more broadly, and Albania is considered one of the pioneers of regulation in this field. However, the reasons are not found in the fast development of the TD financial market in Albania, but in the urgent need to prevent money laundering and terrorist financing.

This law has a long structure, it tries to define many technical terms and notions by translating them into legal ones, the by-laws are being completed, however the fact remains that in Albania there are no normal stock exchanges of the financial markets and we see with difficulty that the most the great regulatory aspect of this law will see application in practice in the near future.

The regulation of a difficult field with so many technological implications is premature for Albania. The protection that the letter of the law offers to the general investor is satisfactory. This law was drafted with the help of

foreign expertise and in many parts of it reaches and retains the regulation that the EU countries have or the European legislation offers.

The European Parliament has emphasized that the approach to the regulation of cryptocurrencies in the EU is fundamentally different from that which prevails in the US, while in the former, cryptocurrencies are considered private money, the latter treats cryptocurrencies as goods that are therefore regulated by legislation. The EU Commission Delegated Regulation defines a commodity as "any commodity of a tradable nature that can be delivered, including metals and minerals and their alloys, agricultural products and energy such as electricity"[15]. Such a definition is part of EU financial services legislation and is consequently used in terms of "commodity derivatives", a type of "financial instrument" under the MiFID II regime, a directive that regulates financial markets.

With the law no. 66 of 21. 05. 2020 Albania has regulated financial markets that are based on distributed ledger technology, affecting conspicuously the law on financial markets and tax legislation in Albania simultaneously.

15. Regulation delegated of the Commission EU 2017/565