European regulation of virtual currencies, its shortcomings and future development

Abstract

This thesis is focused on the European regulation of virtual currencies, meaning the current Union legal regulation of this phenomenon including further European Union institutions' activities in the area. The aim of the thesis is to introduce the existing approach towards virtual currencies as well as to find some of the shortcomings and to outline the future development of European regulation of virtual currencies. As a part of this thesis, relevant activities associated with distributed ledger technology as a technology related to virtual currencies will be introduced. To achieve the mentioned, the thesis analyzes mainly legislative and non-legislative sources issued by competent institutions of the European Union, equally important are the jurisprudential texts from the area of virtual currencies and related fields. The thesis is divided into five chapters which are further divided into topical subchapters. Each of the chapters includes partial identification of shortcomings and presents the future development in the area. The introductory chapter addresses the introduction of virtual currencies as such and in the context of financial law. Further, technological bases of virtual currencies are described, namely the issues of functioning and of using the virtual currencies. Virtual currencies Bitcoin and IOTA are also introduced in this chapter. The final subchapter of the introductory chapter mentions some of the legal aspects of virtual currencies which are discussed in following chapters.

The second chapter of this thesis covers the activities of the European Union in the area of virtual currencies. The first subchapter introduces the efforts to classify virtual currencies into given legal categories including the development of the virtual currencies' definition in the Union law. The second subchapter deals with virtual currencies in the context of anti-money laundering measures, namely the 5th AML directive. The third subchapter of this chapter describes the tax regulation of virtual currencies, especially the value-added tax. The fourth subchapter is focused on two of the areas related to virtual currencies, namely initial coin offerings and distributed ledger technology.

The third chapter introduces the current regulation of virtual currencies in the Czech Republic, the Slovak Republic and the United Kingdom of Great Britain and Northern Ireland.
Approaches of the selected member states are then compared to the European union institutions' approach towards virtual currencies.

The subject of the fourth chapter is to find shortcomings in the European regulation of virtual currencies with respect to societal and technological development in the area. This means the raising awareness of virtual currencies and the development of related new technologies.

The fifth chapter summarizes aforementioned tendencies of future legislative and non-legislative development in the area of virtual currencies. The second subchapter of this chapter contains several de lege ferenda recommendations.

The conclusion of this thesis recapitulates partial conclusions of the individual chapters, suggesting that the current European regulation of virtual currencies is at a relatively good level. Among the main complaints, there is a slow reaction to the development in the area of virtual currencies and connected absence of legislation resulting in inconsistent regualtion at the national level. However, institutions of the European union are very active at recent times, therefore, gradual remedy of the situation can be expected.
Key words

Virtual currencies, ICOs, blockchain.