

What are substitutes for domestic money and what is their legal regime?

Abstract

The thesis deals with the position of substitutes for domestic money in the Czech legal system and the phenomenon of substitutes for state money in general. The work is divided into three parts, in the first the author analyzes the current legal regulation of domestic money substitutes in the Czech legal system, concluding that the current regulation is clearly obsolete, while its interpretation by modern legal science is considered not only restrictive but also very formalistic, and thus not completely fulfilling the role set desired by original legislator. At the end of the first part, the author concludes that some selected forms of non-state money (especially corporate money and LETS systems) correspond to the current concept of substitutes for domestic money, but they can not be considered part of modern economic reality. In the second part, the author analyzes modern forms of non-state money with a focus on cryptocurrencies, as the most relevant form of non-state money. The author describes the gradual development and acceptance of virtual currencies both from the perspective of European regulators and from the perspective of their real economic use. The author concludes that a significant part of virtual currencies falls within the original definition of substitutes for domestic money and the non-application of § 239 para. 1 of the Criminal Code therefore only confirms the conclusions of the first part of the work. In conclusion, the author deals with the division of virtual assets according to the currently prepared MiCA regulation. In the third and final part of the thesis, the author deals with selected problems of the regime of substitutes for domestic money in the legal system of the Czech Republic, both from the *de lege lata* point of view and *de lege ferenda* point of view. In this part, the author mainly points out the completely disproportionate regulatory obligations of traditional payment or investment service providers, in comparison with providers of similar services using the virtual assets, some shortcomings of the forthcoming MiCA regulation and problems of applying AML / CFT measures in trading in virtual assets. At the end of the thesis, the author presents the opinion that non-state money (especially virtual currencies) should not only be subject to significantly increased regulation, but the legislator should consider implementing reworked § 239 paragraph 1 of the Criminal Code, because the reasons for the original regulation are more present than ever.

Key words: Money, cryptocurrency, AML/CFT.