

Summary in english

The purpose of this theses is to analyse the Bitcoin electronic peer-to-peer payment system, from the view of the legal, regulatory and also purely practical issues surrounding its use as a modern means of payment processing.

The reason for choosing this topic is that I find the subject to be very interesting and possibly promising for the future of payments. Also, as the use of Bitcoin payment system spreads across the global population, we can see many of legal questions arising: Is the use of Bitcoin network legal? How is it regulated under existing legal system? Can it be subsumed under any existing legal categories? What are the risks of its misuse for criminal activities? Should new legal rules be enacted to regulate its use, and if so, what should these rules be like?

My goal in this paper is to find these relevant questions, elaborate on them and provide as many answers as will be possible. We have to bear in mind the fact, that the technology, underlying the Bitcoin payment system is very new and many ways path-breaking. As usual, the legal theory lags behind technology here, so many questions still have to be settled before we can give any straight answers.

The work is divided into seven chapters, each dealing with different legal or practical aspects connected to the Bitcoin payment system.

First chapter examines the subject of research. It tells us what Bitcoin is and what are its main characteristics. It also reveals the dual essence of the term bitcoin – as a form of money and as a payment system, made to process transaction with this money. Then, we take a closer look to the inner mechanics of the system, as I believe, that understanding of underlying technology is crucial for the correct legal analysis. We also mention other payment systems derived from Bitcoin.

Second chapter concerns itself with the question of legality or illegality of participating in the Bitcoin network. It concludes, that so far, the simple fact of participating on this network is allowed by the Czech legal system as there are no laws prohibiting its use. But we have to keep in mind, that other activities connected to the use of Bitcoin payment system have to be looked on separately.

Third chapter shows some categories, legal or economical, that Bitcoin could possibly be subsumed under. We elaborate on them and try to tell if the subsumption is really possible. In this way we explore that Bitcoin is very unusual and the subsumptions under existing categories are problematic. Nevertheless we conclude that Bitcoin is an incorporeal thing in legal sense and that it is a form of money. Other categories such as currency and strikingly even electronic money are not suitable.

Fourth chapter examines what we call a Bitcoin ecosystem – a system of social and legal relations connected to the use of Bitcoin. It recognizes several groups and institutions within this system: Users, developers, exchanges and stock-exchanges, merchants and service providers. It also deals with the question of how are these activities regulated under current legal system.

Fifth chapter concentrates on matters of illegal and nefarious activities that the Bitcoin

payment system can be used for. It is, in particular, money laundering and financing of terrorism and trade with illegal substances. It tells us why and how can Bitcoin be used for this kind of activities and how are the authorities recognizing and treating this risk.

Sixth chapter focuses on the issue of Bitcoin regulation *de lege ferenda*. It gives arguments for and against its explicit regulation. It also explores the current attempts to embed Bitcoin into existing legal constructs. It concludes, that Bitcoin, same as other new technologies, has to be treated wisely by policymakers, otherwise the regulation could seriously damage the bitcoin economy and potential of the technology itself.

Seventh chapter gives us a hint on what kind of technologies can possibly evolve from Bitcoin and what other implementations of the underlying technology can there be: For example using the decentralised public ledger known as the blockchain as a means to provide proof of existence of documents in certain time. Also the idea of self-enforcing (so called smart) contracts is very promising, I believe.

My conclusions are, that the Bitcoin payment system is very original piece of technology and it is also very interesting from legal perspective. It changes our view on electronic payments in many ways. Its legal status is yet very uncertain and lot of work still has to be done in this field to embed Bitcoin into existing legal framework. We have managed to outline some categories and tell if Bitcoin falls into them or not and why is that so. Bitcoin is surrounded by rich system of economic, legal and social relations. There are also some risks connected to it and existing control mechanisms are not really prepared to deal with them – especially because of the lack of legal regulation. Bitcoin shows us, that the evolution of money is not nearly at its end, and lawyers need to take that into consideration.