

# Remuneration in Crypto?

## *The Digital Reality Ahead of Legislation*

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### Abstract

*Besides the advancement of digitalization and the increasing use of crypto assets, several issues emerge in our daily lives that may appear surprising at first, but when analyzed in detail, do not seem impossible to implement in practice. This paper explores the creation of a regulatory framework which allows for remuneration for work in crypto assets. The topic is multilayered. On the one hand, it involves the consideration of not only national legislation, but also the relevant international and EU law. This is to identify the various solutions for different solutions that can be used for the various forms of remuneration in crypto assets, to identify solutions that the current regulatory framework allows, and to determine which aspects should be taken into account in a new regulatory environment in light of technological developments.*

Keywords: crypto legislation, crypto assets, remunerations of employees, labor law, blockchain

1. Introduction – Aim of the Research	251
2. Methodology	252
3. The Possible Benefits and Risks of Remuneration in Crypto Assets	252
4. Legislative Background	254
4.1. EU Legislation	254
4.2. ILO Legislation	255
4.3. National Regulatory Examples	256
4.3.1. Hungary	256
4.3.2. Spain	258
4.3.3. India	258
4.3.4. United Arab Emirates	260
5. Can Crypto Assets Be Considered as Money for the Purposes of Employment Remuneration?	259
6. Can Bitcoin Be Legally Regarded as Money?	261
7. Conclusions	263

### *1. Introduction – Aim of the Research*

In our changing world, technological development brings about many new tools, methods, and opportunities in various areas of life. The impact of technological progress on the legislative framework is often significant, as it raises questions that are not adequately addressed by current legal provisions. This paper examines the most important international and certain

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national rules governing remuneration for work related to the payment of certain elements of compensation in crypto assets. The examples shown illustrate how widely different the approaches to the same topic can be in different states, in terms of both legislation and law implementation. As will be demonstrated below, due, *inter alia*, to the relative novelty of crypto assets, most of the applicable legal provisions simply do not address this issue, nor do the relevant provisions promote this method of remuneration. This paper goes beyond a mere analysis of labor law rules, also providing an overview of the relevant financial and fiscal terminology and legal provisions.

Potential users and legislators were first confronted with crypto assets and the challenges they pose in 2009 when bitcoin appeared. In terms of numbers, while in the summer of 2019, there were only 2250 different crypto assets (not a negligible increase in terms of the number of units in just a decade), today their number is over 20,000, of which 8–10,000 may be effectively operational. While the market value of crypto assets was less than USD 500 billion in the autumn of 2020, by February 2025 it had exceeded USD 3,200 billion<sup>1</sup> (equivalent to around 16 times Hungary's GDP in 2023).

## 2. Methodology

First, I consider why remuneration in an employment relationship should be paid in the form of a crypto asset rather than traditional currency, and what specific characteristics can be identified in the regulation of such (crypto asset) remuneration. Next, I used the comparative method to examine the relationship between international labor law (in particular the provisions of the *ILO conventions* on the protection of wages), the EU regulatory framework, and certain national labor laws to determine the demand and possibility for remuneration in crypto-currencies. In the course of the research, I also examined the extent to which concepts of labor law and financial law can be applied together and whether further conceptual clarification may be necessary.

## 3. The Possible Benefits and Risks of Remuneration in Crypto Assets

There can be several reasons behind an employee's demand or an employer's intention to provide remuneration in cryptocurrencies. One of these subjec-

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1 Source: CoinMarketCap ([www.coinmarketcap.com](http://www.coinmarketcap.com)).

tive aspects may be the hype, the fashion, and the acceptance of crypto assets by a particular group of employees and employers.

The blockchain technology behind crypto assets brings transparency to the operation of remuneration schemes, as records are available in the public ledger, and transactions on the blockchain can be tracked by users without identifying their person. The use of crypto assets, in particular certain crypto assets, can be a safe alternative to secure payments in countries with less developed banking systems.

In the case of multinational employers operating globally or at least in several countries, accounting in the same asset may also be crucial from a cost-efficiency perspective. In this case, however, the diversity of crypto regulations in different countries is a challenge for employers. For example, where an employer's national legislation supports cryptocurrency remuneration but the employee's jurisdiction restricts or prohibits the same, the employer may put employees at risk because they may not be able to access their salary or may find it difficult to do so. In addition, countries that restrict crypto markets have lower trading volumes and employees may not be able to, or experience difficulty in accessing such markets.<sup>2</sup>

In the case of the use of crypto assets, the legal risks, including tax risks, and, in the case of multinational users and employers, the risks arising from different national regulations, are not negligible. From a fiscal point of view, the possibility of avoiding income taxes in some countries and the elimination of taxes on financial transactions may be important factors. In some countries, such as Hungary, this would even mean avoiding a significant financial burden (e.g., in Hungary, the financial transaction tax on money exchange together with cash withdrawal in 2025 will result in a total tax burden of 1.8%). In the case of countries struggling with high levels of inflation (e.g., Turkey, Venezuela), cryptocurrencies – especially stablecoins – also represent a significant financial stability and value-preservation advantage compared to the official currency of the country.<sup>3</sup>

Although easy access to remuneration (currency) and its convertibility (in traditional terms) may be important criteria for employees when working internationally, there is a clear risk of exchange rate volatility in the use of crypto assets, and thus fluctuations in their value, which may be mitigated

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- 2 Cf. Bharti Pandya & Priya Rao, 'Viability of compensating employees in cryptocurrency – An exploratory study', *Transnational Marketing Journal*, Vol. 10, Issue 2, 2022, pp. 277–293.
  - 3 Cf. Julian Posada, 'Deeply Embedded Wages: Navigating Digital Payments in Data Work', *Big Data & Society*, Vol. 11, Issue 2, 2024.

by the use of stable crypto assets (*stable coins*). A closely related risk is the actual usability of the crypto asset paid in remuneration (the actual range of recipients). It is therefore important to guarantee the value of the crypto asset received by the employee.

Due to the inherent nature of blockchain technology, all users, including employees, face the risk of irreversible transactions in the event of a wrong transfer, as well as the risk of losing access to their crypto assets in the event of the loss of the private key to their crypto wallet or the death of the person concerned.

#### 4. Legislative Background

##### 4.1. EU Legislation

Although the free movement of persons (employees) is one of the fundamental freedoms in EU law, no general and detailed set of labor law rules exist in EU legislation. In matters relating to employment and employment relationships, the EU has competence regarding remuneration for work only as regards the principle of equal opportunities and equal treatment of men and women, including in particular the principle of equal pay for equal work or work of equal value.

This competence is based on Article 157 TFEU, which lays down a definition of ‘pay’ in the context of the provision requiring equal pay for men and women for equal work or work of equal value. According to this provision, ‘pay’ means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer. However, the Treaty does not, by definition, regulate specific details such as the method and means of payment of wages.

In EU legislation, the issue of wages is, in addition to the above, addressed in the much-debated<sup>4</sup> European Minimum Wage Directive,<sup>5</sup> but neither does this directive contain a definition of, or rules on wages relevant to our topic.

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4 Case C-19/23, *Denmark v Parliament and Council*, pending, action for annulment of Directive (EU) 2022/2041 on adequate minimum wages in the EU.

5 Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union.

## 4.2. ILO Legislation

At the international level, issues relating to the payment of wages are governed by the *International Labor Organization* (ILO) Convention No. 95, which sets out the rules for the protection of wages.<sup>6</sup> Article 1 of the Convention defines the term wages, as

“remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable in virtue of a written or unwritten contract of employment by an employer to an employed person for work done or to be done or for services rendered or to be rendered.”

Concerning the payment of wages, Article 3 of the Convention stipulates that wages payable in money shall be paid only in legal tender. Payment in the form of promissory notes, vouchers, or coupons, or in any other form alleged to represent legal tender, shall be prohibited. As an exception to this provision, the Convention mentions the possibility of payment of wages by bank cheque, postal order, or money order, subject to special authorization or regulation by the authorities, in cases in which such payment is customary or is necessary because of special circumstances, or where a collective agreement or arbitration award so provides, or, in the absence of such provisions, with the consent of the worker concerned. The Convention does not contain any interpretative provision on which country’s legal tender the payment of wages must be made, it merely provides that payment must be made in legal tender.

As a further exception, Article 4 of the Convention mentions that national legislation, collective agreements, or arbitral awards may permit, subject to the fulfillment of further detailed conditions laid down in the Convention, partial payment in kind of wages in those industries or professions where this method of payment is customary in practice or desirable because of the nature of the industry or profession in question.

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6 Protection of Wages Convention, 1949 (ILO Convention No. 95).

### 4.3. National Regulatory Examples

In the following, I will present examples of relevant legislation in a few states, which in some cases have fundamentally different approaches to the issue of remuneration in crypto assets.

#### 4.3.1. Hungary

In Hungary, remuneration from employment is regulated by the Hungarian Labor Code.<sup>7</sup> The essence of an employment contract is that remuneration, *i.e.*, wages, is paid for the work done. The Labor Code does not define the term ‘wages’ in general, but it does provide a definition of wages among the provisions on the prohibition of discriminatory remuneration. According to this definition, wages include all remuneration in cash or in kind provided directly or indirectly based on the employment relationship [Labor Code, Section 12(2)].<sup>8</sup>

According to the scholarly definition of the term ‘wages’, wages are defined as any payment in the form of remuneration in kind which is due to the employee under the employment relationship, granted by the employer based on a statutory provision, collective agreement, employment contract or unilateral undertaking by the employer, and which is proportional to the quantity and quality of the work performed.<sup>9</sup> From this definition, it can be derived that wages can always be understood as benefits received concerning employment but are not necessarily always conditional on work, *i.e.*, there are certain cases where the employee becomes entitled to such benefits even in the absence of work.<sup>10</sup> It is apparent from the previous points that wages are an essential element of the employment contract or employment relationship, to which the employee acquires a substantive right, as mentioned above.

The determination of wages is a matter of free agreement due to the legal status of the parties and the contractual nature of the employment relationship, but this freedom is subject to certain limitations. One of the restrictions

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7 Act I of 2012 on the Labor Code.

8 Tamás Gyulavári (ed.), *Munkajog*, ELTE Eötvös, Budapest, 2012, p. 304.

9 See in detail: Nikolett Hős, ‘Munkabér’, in Tamás Gyulavári (ed.), *Munkajog*, ELTE Eötvös, Budapest, 2024, pp. 297–323.

10 György Nádás et al., *A Munka Törvénykönyvéről szóló 2012. évi törvény kommentárja a munkajogi kódexek összehasonlító táblázatával*, OPTEN, Budapest, 2016, p. 178.

on this freedom is the mandatory minimum wage.<sup>11</sup> The Labor Code sets out the basic forms to determine wages, as well as the rules on the minimum wage. The base wage under Section 136 of the Labor Code, the wage based on performance under Section 137, the wage supplements under Sections 139 to 144, and the supplementary rate under Section 145 are all based on the legal provisions of the Labor Code which are mandatory and allow for derogations only in favor of the employee. Base wages must be paid in all cases and, if the legal conditions are met, the employer must also pay the employee a wage supplement. A derogation is possible to the extent that the employee may be paid more than the amount provided for under the Labor Code or may be paid in the form of a supplementary allowance by contractual agreement with the employee.

For all payments, the Labor Code stipulates as a rule that wages must be determined and paid in Hungarian forints, unless otherwise provided by law or when working abroad, and may not be paid in the form of a voucher or other form of substitute for a means of payment (Section 154 of the Labor Code). Wages may be paid either by bank transfer or in cash (Section 158 of the Labor Code). Wages may not be paid in the form of a voucher or other form of substitute for a means of payment. These rules are mandatory and cannot be derogated from either by agreement between the parties or by collective agreement.<sup>12</sup> The purpose of the prohibition on payment by voucher is to prevent the employer from providing goods produced by him instead of money. Although Hungarian labor law practice recognizes the concept of payments in kind, the legislation allows its use only in a very limited range of cases, for payments that do not qualify as wages (e.g., in the context of cafeteria benefits).<sup>13</sup> In the case of these other payments, the employee's entitlement to benefits is not based on the implied statutory provisions of the Labor Code, but on a unilateral commitment by the employer or a separate agreement between the parties (such as bonuses, rewards, or any other similar payments). Although the implied provisions of the Labor Code do not limit these payments in substance, the basic principles must be applied here (good faith, fairness, equal treatment, *etc.*).

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11 Id. p. 167.

12 Ildikó Rátkai, 'A munkabérrel kapcsolatos feladatok; levonás a munkabérből', *Munkajogi tanácsadó*, 2013/10, p. 8.

13 Cf. Gyulavári 2012, p. 304.

### 4.3.2. Spain

In Spain, the basic rules on pay for work are laid down in the Workers' Statute (hereinafter: Statute).<sup>14</sup> Section 26.1 of the Statute defines 'wages' as the remuneration, in cash or in kind, received by an employee for the professional provision of employment services. According to the same provision, remuneration in kind may in no case exceed thirty percent of the employee's remuneration. According to Section 29.4 of the Statute, the employer may pay wages and social security benefits by cheque or other similar means of payment in legal tender through a credit institution, after informing the works council or the staff representatives. According to the correct interpretation of that statutory provision, the language of that provision prohibits the payment of wages by cryptocurrency, since it is not considered by Spanish law to be legal tender in Spain and cannot be considered a 'similar form of payment', since it is not guaranteed by a credit institution. It should be noted, however, that the Statute is not clear as to what exactly it means by legal tender: solely the legal tender of Spain (the euro) or also the legal tender of any other country? If it's the latter, this raises further questions, for example in the case of payments in *bitcoin* – the reasons and details of which are set out below.

Furthermore, as Spanish labor law gives broad permission for remuneration in kind, the question arises whether payouts in crypto assets are in line with the legislation, for example, in the analogy of the internationally widespread stock option schemes for executive remuneration. Spanish legal provisions do not yet provide a clear answer to this question.

### 4.3.3. India

In India, the payment of wages is regulated by a specific law. The interpretative provisions of the Payment of Wages Act<sup>15</sup> define *wages* as any remuneration (whether in the form of salary, gratuity, or otherwise), whether in monetary or other form, which, if the expressed or implied conditions of employment were fulfilled, would be payable to an employee because of his or her work performed in such employment, including remuneration for overtime, holidays, bonuses (whatever their designation) and payments upon termination of employment.

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14 Real Decreto Legislativo 2/2015, de 23 de octubre, por el que se aprueba el texto refundido de la Ley del Estatuto de los Trabajadores.

15 The Payment of Wages Act, 1936.

However, the law does not consider as part of wages the value of any bonus that is not part of the remuneration payable under the employment relationship, the value of house accommodation, supply of lighting, water, medical services, or other services, including those excluded by law from the calculation of wages; any contributions paid by the employer into any pension or provident fund and any interest accrued thereon; the value of any travel allowance or any travel concession; any amount paid to cover special expenses incurred by the employee in connection with the nature of his employment; or any allowance paid upon termination of employment in specified cases.

Under Section 6 of the Act, all wages must be paid in current coins or bank notes, by cheque, or by crediting to the employee's bank account, but in 2017 by amendment of the law, the Government was also entitled by law to limit the method of payment of wages to cheques and bank transfers in certain cases. Similar provisions are included in the 2019 law on wages.<sup>16</sup> Contrary to the above, India's Equal Remuneration Act<sup>17</sup> defines remuneration as the basic salary and any additional remuneration paid in cash or in kind to the person employed based on the work performed in the course of employment.

The Minimum Wage Act<sup>18</sup> considers as wages all monetary benefits which, if the conditions of the employment contract are fulfilled, are due to the employed person for the employment relationship or the work performed in such employment relationship. It also defines payments that are not included in the definition of wages, such as housing, electricity, water, medical care and travel allowances, pension insurance contributions, and severance payments upon termination of employment. The minimum wage shall be paid in cash, except where it is the local practice to pay all or part of the wage in kind, in which case the government of the competent constituent state shall authorize payment of all or part of the minimum wage in kind.<sup>19</sup>

Based on the legal provisions on wages described above, it can be concluded that the concept of wages is interpreted quite broadly in Indian law, which allows wages to be paid either in cash or in a claim for cash (cheque or bank account) as a general rule. Indian law does allow payment in kind

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16 The Code on Wages, 2019.

17 The Equal Remuneration Act, 1976.

18 The Minimum Wages Act, 1948.

19 Arundhati Kale, 'Cryptocurrency as Wages and Salary', *Indian Journal of Integrated Research in Law*, Vol 2, Issue 2, 2022, pp. 708–715.

on an exceptional basis, but only within the scope of the minimum wage rules and with special government permission if local custom so justifies. Under this regime, there may be a limited possibility for remuneration in crypto assets if crypto assets are considered as benefits in kind, but the legislation is far from providing for a general and unlimited possibility in this respect.

#### 4.3.4. United Arab Emirates

The United Arab Emirates (hereinafter: UAE) is one of the fastest growing business hubs of the world, and the growing crypto markets and crypto services are an important part of its development. While the regulatory framework<sup>20</sup> in the UAE is designed to support this development, recent court decisions are of particular relevance, especially in light of the ambiguity under Islamic sharia law as to whether crypto assets are considered to be prohibited (*haram*) or permitted (*halal*).<sup>21</sup>

The courts in the UAE are more frequently confronted with labor disputes concerning the applicability of remuneration in cryptos than in other countries. This issue arises particularly because there is a growing local demand for the inclusion of crypto assets in the remuneration of employees, especially in the technology and fintech industries, where the inclusion of bonuses or partial payments in crypto assets is already the practice. The Payment Token Service Regulation<sup>22</sup> of the UAE strictly restricts the acceptance of payment tokens in commercial transactions (for the sale of goods and the provision of services), but this restriction only applies to merchants and commercial transactions and does not apply to remuneration in the context of employment relationships.

The starting point of the regulation is that, according to Section 22 of the UAE's Labor Law,<sup>23</sup> wages must be paid in the local currency, the *dirham*

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20 For the details of the regulatory framework cf. Moatasem El-Gheriani & Adham Hashish, 'Harnessing the crypto-horse. Factors affecting a friendly regulator of the crypto-industry: Dubai as a test case', *Information & Communications Technology Law*, February 2025, pp. 1–21.

21 Mervan Selcuk & Suleyman Kaya, 'A Critical Analysis of Cryptocurrencies from an Islamic Jurisprudence Perspective', *Turkish Journal of Islamic Economics*, Vol. 8 Issue 1, 2021, pp. 137–152.

22 Payment Token Services Regulation of 2024, (United Arab Emirates) Section 2(7).

23 Federal Decree by Law No. (33) of 2021 Regulating Labor Relations (United Arab Emirates).

(AED), but can be paid in other currencies if the parties agree to this in the employment contract. In the first lawsuit in 2023, the Dubai Court of First Instance (hereinafter: DCFI) had to rule on an employment dispute concerning the payment of wages in tokens, namely EcoWatt project tokens.<sup>24</sup> Although the court acknowledged that the employment contract included these tokens, it ultimately rejected the legality of the employee's claim. The basis for the rejection was that the claimant employee could not demonstrate a clear method for calculating the value of the crypto asset in fiat currency. In this decision, the court underlined the need for precise and tangible evidence in determining financial obligations, especially in the case of non-traditional payments such as crypto assets. One year later, another judgment of the DCFI,<sup>25</sup> contrary to the previous judgment, confirmed the legality of paying wages in crypto assets – again in EcoWatt tokens – under employment contracts without conversion into fiat currency, based on an employment contract where the employee was entitled to wages in fiat currency and the tokens. This decision marked a significant change of direction in the UAE court's approach to crypto assets.

However, the judgment confirmed that in the case of remuneration in crypto assets (i) the agreement must specify the crypto-currency used for remuneration; (ii) the agreement must set out a clear valuation method for expressing the value of the crypto asset in fiat currency; (iii) in the event of the possibility of significant exchange rate volatility, appropriate safeguards should be in place.

### 5. Can Crypto Assets Be Considered as Money for the Purposes of Employment Remuneration?

As demonstrated above, for reasons of the particular importance of the guarantee of the payment of wages, several national and international provisions require payment in money (official currency) and, although there are differences between countries, these provisions limit the possibility for the employer to pay wages in kind. In this context, it is also necessary to address the question of to what extent and under what conditions crypto assets can be considered as money?

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<sup>24</sup> Dubai Court of First Instance, Case DCFI No. 6947/2023.

<sup>25</sup> Dubai Court of First Instance, Case DCFI No. 1739/2024 of 17 July 2024, at [https://www.lexismiddleeast.com/case/Dubai/DCFI\\_2024\\_1739\\_2024/](https://www.lexismiddleeast.com/case/Dubai/DCFI_2024_1739_2024/).

The deficiencies in the legal definition of money and securities, and the differences in definition do not make it easy to distinguish crypto assets from their conventional counterparts.

As a starting point, it is important to underline that crypto assets are not just an alternative to fiat money, but a much broader category of assets. Among the main types of crypto assets we can identify: (i) *payment tokens*, also known as virtual/cryptocurrencies, which act as a medium of exchange or store of value (e.g., bitcoin was originally created for this purpose); (ii) *asset/security (investment) tokens*, which represent a form of debt or equity (e.g., EGX); (iii) *utility tokens*, which provide access to a product or service (e.g., Filecoin, VET); and (iv) *hybrid tokens*, which can fall into multiple categories (e.g., ETH).

Given the fact that there are thousands of different crypto assets that can be classified into different token categories, while each crypto asset is more or less different from the others, we can see a very colorful picture, where by analyzing different tokens it is worth focusing on the similarities and differences between payment tokens and traditional money, and it is necessary to look at the similarities of each payment token to fiat money individually. Consequently, the fact that a single selected crypto asset may be found to be monetized for remuneration purposes does not imply that this finding can be automatically extended to any other crypto asset.

It is important to emphasize that the situation is not made any easier by the fact that there is no general legal definition of money. Each country defines its official currency and stipulates that payments to fulfill financial obligations made in its official currency must be accepted by all. However, in many cases the relevant legal provisions allow parties in civil law relationships to deviate from this in the performance of their obligations.

As regards the distinction between traditional money – issued by states or central banks – and payment tokens, it is appropriate to have a look at the phenomena of the legal theories of money (state and social theory of money), which are in principle mutually exclusive, but in fact coexist. We can see that, according to the social theory of money, any scarce, homogeneous, and easily recognizable instrument can in practice function as money if it is accepted and used as such by society. (The question of whether any of the payment tokens actually perform all the economic functions of money does not affect the legal approach).

The state theory of money, on the other hand, emphasizes that only an instrument declared by state regulation as such can be considered money. However, state regulations do not simply determine the monetary character

of any asset, but all states of the world regulate what is their currency,<sup>26</sup> and the states of the world permit or prohibit the use of official currencies of other states as a means of payment for obligations. From the notion of official currency, we can logically deduce that what is considered official currency is also necessarily money, but it is not logically necessary that only an official currency of a country can be regarded as money.<sup>27</sup> Based on the economic functions of money, the currently existing payment tokens cannot be regarded as money on a normative basis, since they can only perform some but not all of the functions of money. Meanwhile, it can be argued in a functionalist sense that they can be used for certain purposes in a similar way to conventional money.

Each state may decide to issue its official currency or to recognize as such the official currency of any other state, owing to its financial sovereignty. There is no legal obstacle to a state recognizing as official currency an instrument/asset that no other state has issued. This happened in 2021 in *El Salvador* and 2022 in the *Central African Republic*, when these countries declared *bitcoin* as their official currency. Making any payment token – in these cases the historically best known and most widely used one – the official currency in these two countries, necessarily means that Bitcoin became money in these countries. Although this decision is so far the decision and regulation of only two and less dominant states in the world economy, but its legal implications could go far beyond the borders of these small countries, given that the recognition as official currency removes the objection that the crypto asset in question is not official currency anywhere.

## 6. Can Bitcoin Be Legally Regarded as Money?

Based on the above-mentioned fact that *bitcoin* is now recognized as an official currency by two countries, one might draw the simple logical conclu-

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26 See e.g. Article K) of the Fundamental Law of Hungary; Article L111-1 of the *Code monétaire et financier* of France. It should be noted that the vast majority of the world's states use their own currency, but there are groups of countries that operate a common monetary system (the most famous examples are the Economic and Monetary Union, the Eurozone in Europe and the group of Central African countries that use the CFA Franc). There are some states that use the official currency of another state as their own (e.g. Montenegro), and in certain countries more than one different official currency exist, even if geographically separated (e.g. the *yuan (renminbi)*, the *Hong Kong dollar* and the *Macanese pataca* in case of China).

27 On the theory of private money cf. Friedrich August von Hayek, *Denationalisation of Money*, Institute of Economic Affairs, London, 1976.

sion that bitcoin should be considered as money in general. bitcoin operates as money in the functionalistic sense, at least in jurisdictions where it is already officially recognized as a currency. However, as it is not recognized as a currency in the rest of the world, it could be argued that bitcoin is not recognized as money under the state theory of money.<sup>28</sup> On further reflection, there is no obligation under international law for any state to recognize the official currency of any other state as a universal monetary instrument.

It is therefore appropriate to consider the legal monetary nature of bitcoin in the light of the law of those countries where the question of bitcoin as money arises. For the time being, apart from the two above-mentioned countries, neither bitcoin nor any other crypto asset is recognized as money by the legal provisions in force. However, the situation is not so clear-cut when looking at court cases.

To date, the CJEU has only dealt with the legal status of a crypto asset in one case. The core issue in *Hedquist* (2015) was the interpretation of the VAT exemption for the conversion of bitcoin into fiat money. In its judgment, the CJEU underlined that “the ‘bitcoin’ virtual currency with bidirectional flow, which will be exchanged for traditional currencies in the context of exchange transactions, cannot be characterized as ‘tangible property’ [...], given that [...] virtual currency has no purpose other than to be a means of payment.” The CJEU has added in its ruling, that “the ‘bitcoin’ virtual currency, being a contractual means of payment, cannot be regarded as a current account or a deposit account, a payment or a transfer. Moreover, unlike a debt, cheques and other negotiable instruments [...] the ‘bitcoin’ virtual currency is a direct means of payment between the operators that accept it.”<sup>29</sup>

In the grounds for US court rulings, we also see findings in favor of bitcoin being used as money. In *SEC v Shavers*<sup>30</sup> (2013) the US District Court in Sherman, Texas highlighted:

“It is clear that bitcoin can be used as money. It can be used to purchase goods or services, and as Shavers stated, used to pay for individual living expenses. The only limitation of bitcoin is that it is limited to those places that accept it as currency. However, it can also be exchanged for conven-

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28 Asya Passinsky, ‘Should Bitcoin Be Classified as Money?’, *Journal of Social Ontology* Vol. 6, Issue 2, 2020, pp. 281–292.

29 Judgement of 22 October 2015, *Case C-264/14, Hedqvist*, ECLI:EU:C:2015:718, paras. 24 and 42.

30 *Securities and Exchange Commission v Trendon T. Shavers and Bitcoin Savings and Trust*, Case No. 4:13-CV-416.

tional currencies, such as the U.S. dollar, euro, yen, and yuan. Therefore, bitcoin is a currency or form of money.”

In *U.S. v Ulbricht (Silk Road)*<sup>31</sup> (2014) the U.S. District Court, S.D. New York added, that “bitcoins carry value – that is their purpose and function – and acts as a medium of exchange. bitcoins may be exchanged for legal tender, be it U.S. dollars, euros, or some other currency. Accordingly, this argument (that bitcoin is not money) fails.”

## 7. Conclusions

The demand for remuneration in crypto assets in the framework of employment relations has now emerged and is spreading globally. The elements of international labor law and, in line with this, many national labor laws governing the protection of wages and salaries severely restrict the possibility of crypto remuneration, mainly by relegating it to the sphere of fringe benefits in kind (cafeteria elements). However, it is also important to consider that these rules were adopted well before the emergence and spreading of crypto assets. The rules governing the protection of wages do not exclude the payment in crypto assets of non-wage benefits provided unilaterally or by agreement.

It is apparent that there is a lack of consistency between legislation and court practices in the legal recognition of crypto assets, and Bitcoin in particular, as money. The courts in Europe, the US, and the Middle East are much more flexible on this issue than the legislator.

There are huge differences between crypto assets in terms of their purpose and basic characteristics. Not all of them were created to be a means of payment and therefore not all of them can be considered as an alternative to money. It is therefore important to bear in mind that any conclusions should be specific to the crypto asset under consideration and should not be generalized. The recognition of a particular crypto asset as an official currency by certain states raises additional issues for countries that do not consider any crypto asset to be money.

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31 *U.S. v Ulbricht*. 2014. 31 F. Supp. 3d 540 (S.D.N.Y. 2014).

