

Digital currency in the context of the development of Digital Single Market Strategy in the EU



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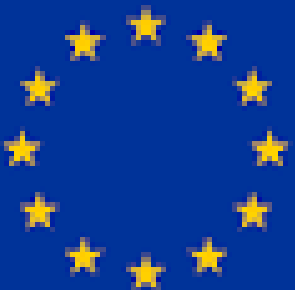
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You think it is just a pizza?



Today its price is nearly 4 million dollars.

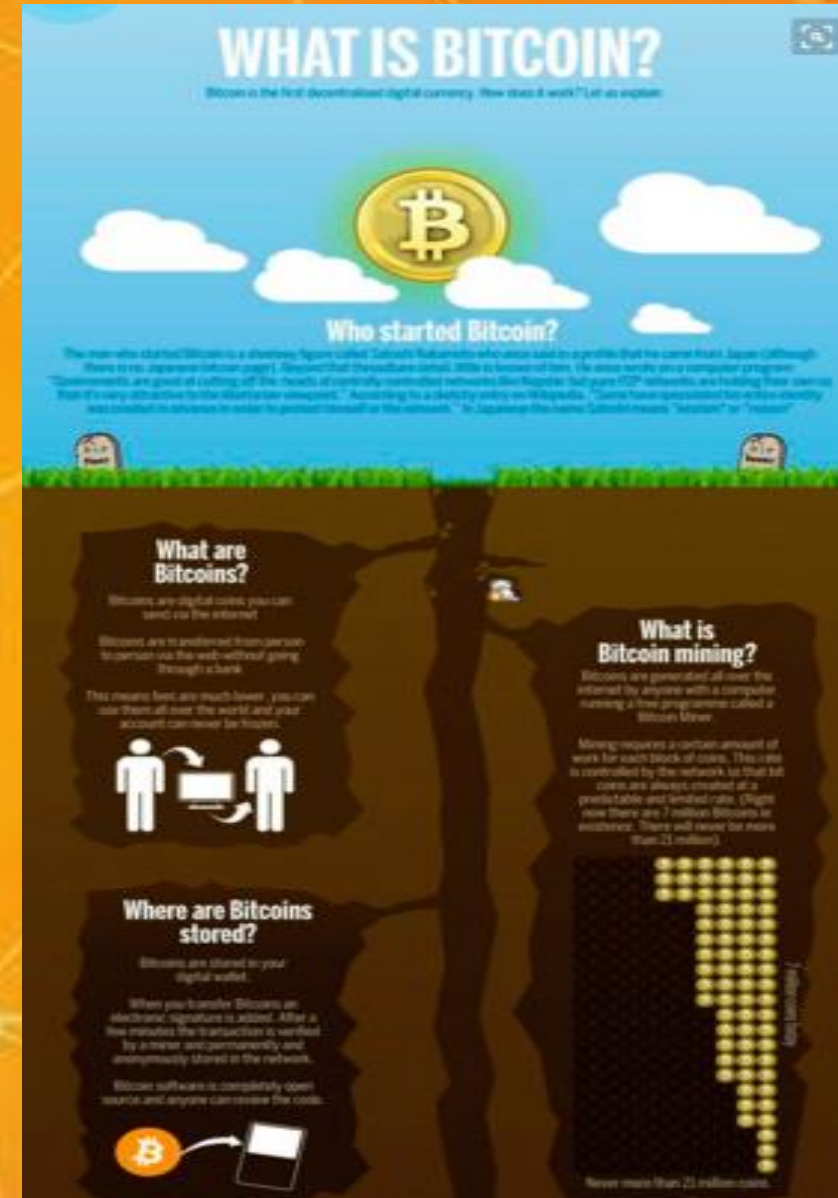


WHAT IS BITCOIN?

Bitcoin is a peer-to-peer payment system, in which users pay bitcoins—a digital currency—in exchange for goods and services.

«Governments are good at cutting off the heads off centrally controlled networks like Napster, but pure P2P networks are holding their own so that it's very attractive to the libertarian viewpoint».

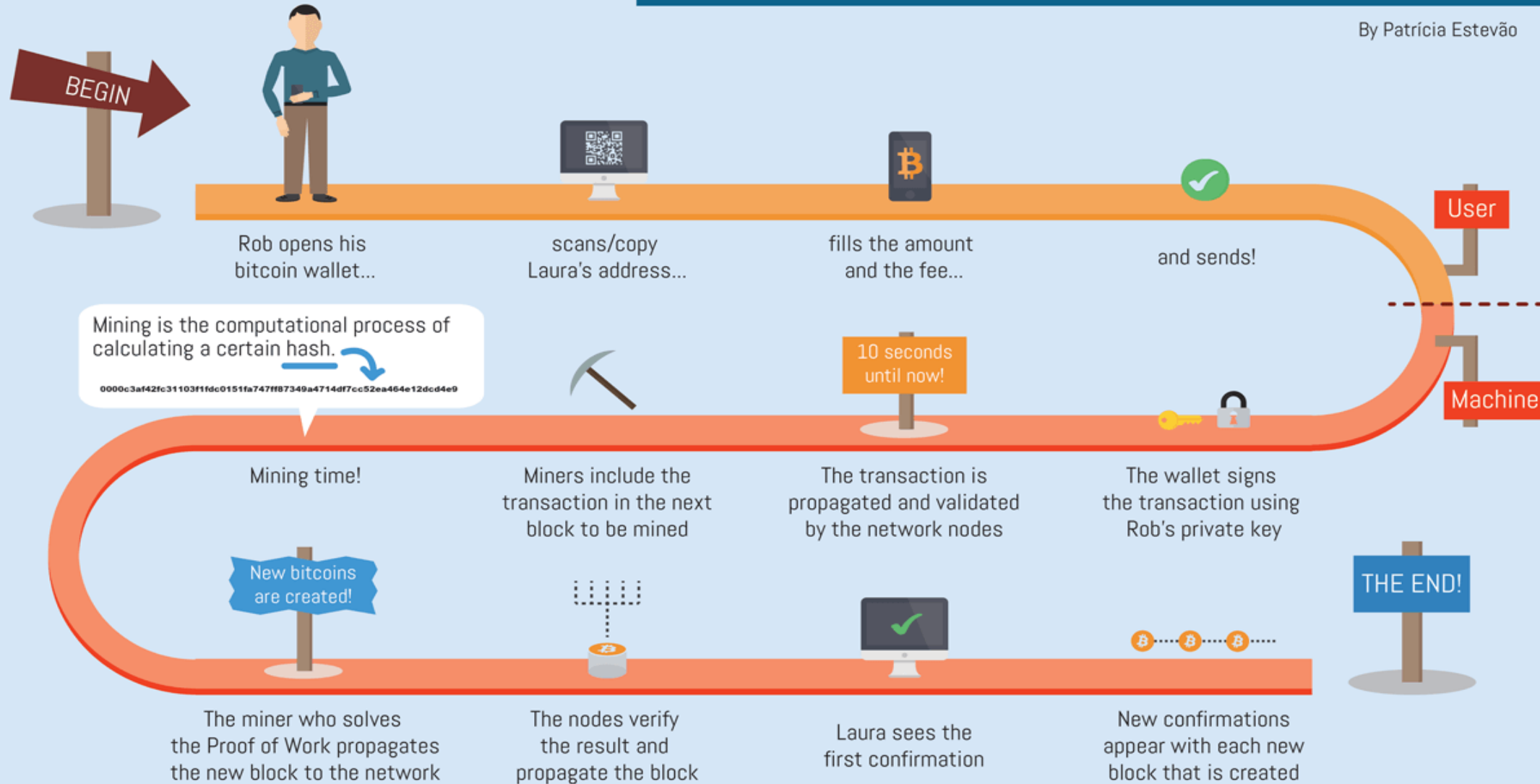
Satoshi Nakamoto ©



THE BITCOIN TRANSACTION LIFE CYCLE

Rob's quest to send 0.3 BTC to his friend Laura

By Patrícia Estevão



Bitcoin VS E-money



DIFFERENCES DEFINED



Bitcoin



e-money

Accessibility:

Largely limited to Internet connection

Access to electronic devices such as mobile phones, and an agent network

Value:

Determined by supply and demand, and trust in the system

Equal to amount of fiat currency exchanged into electronic form

Customer ID:

Anonymous

Financial Action Task Force standards apply for customer identification (though such standards permit simplified measures for lower risk financial products)

Production:

Mathematically generated ("mined") by peer network

Digitally issued against receipt of equal value of fiat currency of central authority

Issuer:

Community of developers, called "miners"

Legally established e-money issuer

Regulator or oversight:

None, though regulators are currently exploring

Regulated by central authority, typically central bank

Relevance

Reasons for making ambitious steps related to digital currency in the context of achieving the goals, which were set by the Commission, Parliament, Member States in Digital Single Market Strategy:

- ATM and other electronic systems are insufficient to cope with the new economic pressures and demands of the society;
- Bizarre realities of post modern life like unaccounted money leading to large scale corruption, cyber economic crimes, funding of terrorist operations, social evils, etc.;
- Severe governmental control over the value of a currency like USD through the process of printing fiat money;
- Need for elimination of obstacles in interstate trade (EU territory).



A satellite-style map of the world with several red location pins placed across various continents, including North America, Europe, Africa, Asia, and Australia. The text "Worldwide regulation of virtual currency" is overlaid in white.

Worldwide regulation of virtual currency



One **World**
One **Currency**

BRAZIL

On October 9, 2013, Brazil enacted Law No. 12,865, which created the possibility for the normalization of mobile payment systems and the creation of electronic currencies, including the bitcoin. The Law provides, among other things, for the payment arrangements and payment institutions that comprise the Brazilian Payment System (Sistema de Pagamentos Brasileiro, SPB).



CHINA

- On December 3, 2013, the central bank of China and four other central government ministries and commissions jointly issued the Notice on Precautions Against the Risks of Bitcoins. Defining it as a special “virtual commodity,” the Notice said that by nature the bitcoin is not a currency and should not be circulated and used in the market as a currency.
- Banks and payment institutions in China are prohibited from dealing in bitcoins.



JAPAN

A set of regulations was approved by Japan's Cabinet on 4 March, 2016, recognizing virtual currencies a legal form of payment with the same functions as fiat money. The aim is to fight money laundering and protect customers of virtual currency exchanges. The new regulations place bitcoin exchanges under the authority of the Japanese Financial Services Agency. They are obliged to register with the Agency, have a minimum capital of \$88,000, submit annual financial reports and undergo auditing by certified accountants.



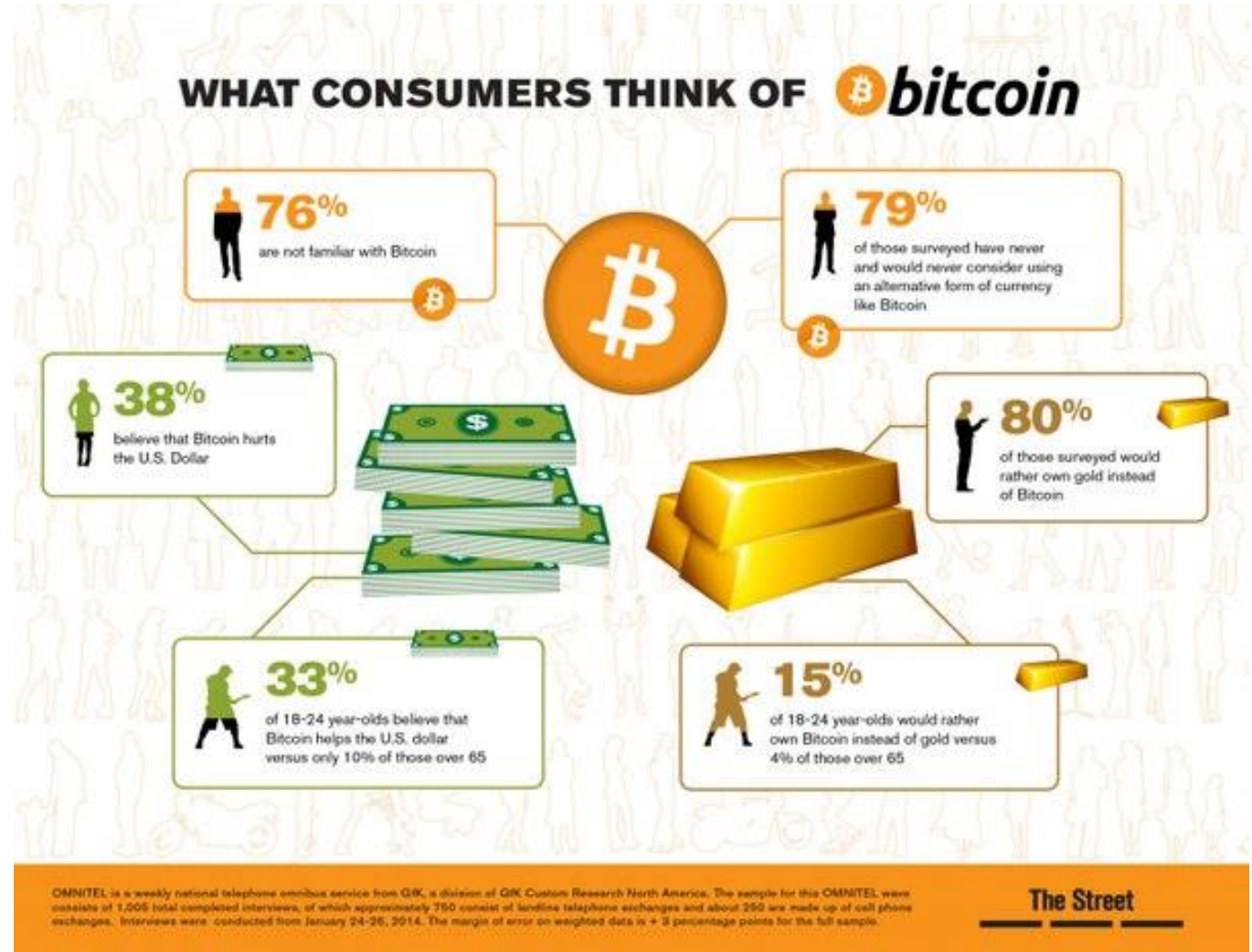
USA


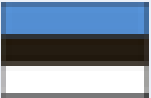


- In June 2015, the Ministry of Finance of the State issued the world's first specialized a set of regulatory standards of cryptocurrency "BitLicense". The document contains the conditions of the activities of the companies with a "virtual currency" in the state of New York.
- As at 22 September, 25 companies have applied for a license in NYDFS, but only one of them, Circle Internet Financial, managed to get it without further obstacles. Some financial institutions have gone to bypass and obtained a license as a public trust companies. It did itBit Trust Company and Gemini Trust Company, LLC.






CALIFORNIA

- In January 2015, California became the first US state to officially authorize the use of Bitcoin, but with significant limitations. On June 28, 2014, California passed Assembly Bill 129 to permit the issuance and use of alternative currencies by repealing an existing law that prohibited issuing or putting in circulation, as money, anything but the lawful money of the United States. California's "BitLicense" has failed to pass in the Legislature.
- On 19 February, 2016, bankruptcy Judge Dennis Montali, in the Northern District of California, found that the Bitcoin at issue should be classified as "intangible personal property" and not as currency.



EU MEMBER STATE	REGULATION	ATTITUDE
<div>Croatia</div> <div>  </div>	<p>On 6 December 2013, the Croatian National Bank reportedly conducted a discussion on the circulation of digital currencies and concluded that the Bitcoin is not illegal in Croatia.</p>	<p>CNB said that it is not electronic money since it's not debt to the issuer and that it is not legal tender in Croatia but can be legally used.</p>
<div>Estonia</div> <div>  </div>	<p>In March 2014, Estonian Tax Authority defined the official government position that Bitcoin is an alternative means of payment and income derived from Bitcoin transactions constitutes capital gain subject to taxation.</p>	<p>Bitcoin is widely spread in Estonia. But there is no government regulation about it.</p>
<div>Finland</div> <div>  </div>	<p>Ruling 034/2014 by the Finnish Central Board of Taxes (CBT) stated that commission fees charged on bitcoin purchases by an exchange market were, under the EU VAT Directive, banking services and therefore VAT exempt.</p>	<p>The Bank of Finland concluded that bitcoin simply doesn't meet the legal conditions required to be considered a form of electronic payment, either.</p>
<div>France</div> <div>  </div>	<p>In June 2014 France's central bank released a report on the Bitcoin, warning about the dangers of such "virtual currencies."</p>	<p>Bitcoin cannot be considered a real currency or means of payment under current French laws.</p>

EU MEMBER STATE	REGULATION	ATTITUDE
<div data-bbox="343 225 501 261">Germany</div> <div data-bbox="343 297 501 396"></div>	<p>The communication on bitcoin issued by Federal Financial Supervisory Authority on 19 December 2013 defines bitcoins are legally binding financial instruments that fall into the category of units of account, in accordance with the first sentence of section 1(11) of the German Banking Act.</p>	<p>BaFin (the German ministry of finance) announced it does not consider bitcoin to be e-money or a functional currency. Instead, it referred to it as "private money" and a "financial instrument".</p>
<div data-bbox="349 705 496 741">Slovenia</div> <div data-bbox="349 789 496 889"></div>	<p>On December 23, 2013, the Ministry of Finance of the Republic of Slovenia issued a formal opinion about the status of the bitcoin and other virtual currencies in response to a request from the Tax Administration of the Republic of Slovenia.</p>	<p>The opinion states that the bitcoin is not a monetary means under Slovenian law and not a financial instrument.</p>
<div data-bbox="247 1140 598 1176">The United Kingdom</div> <div data-bbox="343 1232 484 1332"></div>	<p>In March 2015, the UK Government published a summary of the evidence gathered through the Call for Information on the benefits and risks associated with virtual (digital) currencies, and announced that it intends to apply anti-money laundering regulation to digital currency exchanges in the UK.The UK's National Crime Agency (NCA) is leading a</p>	<p>There is no any constructive guidance or comment on the regulation of digital currencies. The lack of regulation in the UK has caused more problems than opportunities for bitcoin businesses.</p>

EU Legal Basis on Virtual Currencies (BITCOIN)

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graph TD; A[EU Legal Basis on Virtual Currencies (BITCOIN)] --> B[EBA Consumer Trends Report 2014:]; A --> C[EBA Opinion on 'Virtual Currencies' 2014:]; A --> D[ECB Report on 'Virtual Currencies Schemes – a Further Analysis' 2015:];
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EBA Consumer Trends Report 2014:

- Trends and issues identified for 2014 include Virtual currencies;
- Analysis of level of Bitcoin's spreading;
- Includes provisions concerning the risks related to virtual currencies
- Aimed at establishing a cross-sector taskforce in order to decide whether virtual currencies ought to be regulated.

EBA Opinion on 'Virtual Currencies' 2014:

- Give a definition of 'virtual currencies';
- Define potential benefits of using VC;
- Determine different kind of risks (to users, financial integrity,ect.);
- Propose key risks drivers, regulatory approach for long and short term.

ECB Report on 'Virtual Currencies Schemes – a Further Analysis' 2015:

- Describes the notion "virtual currency schemes" ;
- Includes new categories of most relevant actors of VCS;
- Fixes the diversity of VCS;
- Clarifies VCS's impact on the tasks of the Eurosystem.

Case Skatteverket vs David Hedqvist

C-264/14

Reference for a preliminary ruling



The Court was asked to consider how an exchange, which sold Bitcoin for traditional currencies, would be taxed.

Mr. Hedqvist wishes to provide, through a company, services consisting of the exchange of traditional currency for the 'bitcoin' virtual currency and vice versa.

Before starting to carry out such transactions, Mr. Hedqvist requested for a preliminary decision from the Revenue Law Commission in order to establish whether VAT must be paid on the purchase and sale of 'bitcoin' virtual currency units.

The Skatteverket appealed against the Revenue Law Commission's decision to the Högsta förvaltningsdomstolen (Supreme Administrative Court) arguing that the service to which Mr. Hedqvist's request refers is not covered by the exemption.

Having doubts as to whether one of those exemptions applies to such transactions, the Högsta förvaltningsdomstolen (Supreme Administrative Court) decided to stay the proceedings and refer to the Court of Justice for a preliminary ruling.

Court decision confirms that an exchange of Bitcoin for a traditional currency is a supply of services. The Court held that an exchange of Bitcoin fell within the exemption in Article 135(1)(e) of the VAT Directive. This exempts transactions 'concerning currency, bank notes and coins used as legal tender' from VAT.

The decision that supplies of Bitcoin should be exempt from VAT has been welcomed by the Bitcoin community. It provides an important degree of certainty and should help virtual currency exchanges set up in Europe.

STRENGTHS:

- 1) Lower transaction cost;
- 2) Transaction proceeding time;
- 3) Certainty of payment received;
- 4) The absence of intermediaries;
- 5) Financial inclusion outside the EU;
- 6) Security of personal data;
- 7) Limited interference by public authorities.

WEAKNESSES:

- 1) Bitcoin exchanges vulnerable to hacking;
- 2) Pure consumer experience;
- 3) Uncertainty about regulation;
- 4) Bitcoins are not widely accepted;
- 5) No buyer protection;
- 6) No Valuation Guarantee;
- 7) Uncertain Future.

OPPORTUNITIES:

- 1) Bitcoin accounting transparency eliminates the need for businesses to produce documents about activities;
- 2) Contributing to economic growth;
- 3) Elimination of obstacles in the context of creating Digital Single Market in EU;
- 4) Investment in Bitcoin.

THREATS:

- 1) Criminals are able to launder proceeds of crime because they can deposit/transfer VC anonymously;
- 2) Criminals are able to launder proceeds of crime because they can deposit/transfer VC globally, rapidly and irrevocably;
- 3) Criminals use VC exchanges to trade illegal commodities;
- 4) Criminals/ terrorists use the VC remittance systems and accounts for financing purposes.

Conclusions

1. To adopt single Virtual Currency Act, which includes definition of “virtual currency” means any type of digital unit that is used as a medium of exchange or a form of digitally stored value.
2. To exempt transactions with virtual currency from taxation.
3. License required. No Person shall, without a license obtained from the superintendent engaged in Virtual Currency Business Activity.
4. To create the Body, which will be authorized to issuing licenses.
5. Spreading ideas concerning using of VC in modern society.





**THANK YOU
FOR YOUR
ATTENTION!**

