

ADMINISTRATIVE AND CIVIL LEGAL REGULATION OF PUBLIC ADMINISTRATION BODIES' ACTIVITY IN THE SPHERE OF ELECTRONIC MONEY TURNOVER TAKING INTO ACCOUNT PUBLICITY AND TRANSPARENCY PRINCIPLES

Mykhailo Vilhushynskiy¹, Oksana Ulianovska²

Abstract. The article is devoted to the study of administrative and civil legal regulation of the public administration bodies' activity in the sphere of electronic money turnover, in particular, taking into account the publicity and transparency principles. The author emphasizes that publicity and transparency principles of administrative and civil legal regulation in the sphere of electronic money turnover are modern universally recognized democratic values of the European civilization, which serve as a benchmark for state legal reforms in the countries of Central and Eastern Europe.

The author also points out that the transparency principle is of outmost importance for administrative and civil legal regulation of public administration bodies' activity in the sphere of electronic money turnover and, moreover, the principle appears to be a key characteristic of public administration as a whole, which ensures proper interaction between the state and citizens in a form that provides state authorities of different branches with information in all spheres or access to it, except for statutory restrictions on the provision of information. According to this principle, the activity of public bodies should be as transparent as possible, except for those cases when information constitutes state secret. Furthermore, the transparency principle not only ensures proper interaction between the state and its citizens, but also positively influences the rule of law.

On the other hand, the publicity principle is a principle of administrative and civil legal regulation of public administration bodies' activity in the sphere of electronic money turnover that becomes apparent in a form of public control exercised over the public administration bodies' activity. The publicity principle characterizes public administration democracy, and open and transparent activity of public authorities that enables citizens to become personally familiar with the work of public administration. Moreover, publicity is closely connected with democratisation of public authorities, which, in turn, indicates the principle's intention to become closer to society and more effectively ensure efficient public administration, especially in the sphere of legal regulation of electronic money turnover.

The article emphasizes that principles of publicity and transparency in administrative and civil legal regulation of public administration bodies in the sphere of electronic money turnover are not identical. Transparency means the availability of electronic money for all citizens, while publicity means not only availability, but also the possibility for the general public to discuss the course and results of such a process, that is, a way of forming public opinion, its evaluation of activities related to electronic money turnover, which public administration authorities should take into account in order to improve their work.

The paper also examines issues related to the legal status of electronic money, the definition of this concept at the legislative level and in practice. The author analyzes issues of current legal regulation of e-money as a means of payment under the Ukrainian legislation. The article identifies that using electronic money allows saving on cash maintenance costs, reducing transaction time, and, at the same time, electronic money keeps having the same functions as traditional fiat money, which makes it highly plausible to get cash replicated with e-money, though such a transition still requires a developed and effective regulatory framework.

Methodology. In the course of this article preparation, a whole range of philosophical and ideological approaches (dialectical, as a way of thinking based on the analysis of all available views on the content of administrative and

Corresponding author:

¹ Taras Shevchenko National University of Kyiv, Ukraine.

E-mail: m.vilhushynskiy@ukr.net

² Svyatoshinsky District Court of Kyiv City, Ukraine.

E-mail: petrov1912p@gmail.com

civil legal regulation of public administration bodies' activity in the sphere of electronic money turnover; analytical, based on cognitive activity by proving or refuting the definition of transparency and publicity in the electronic money turnover sphere; hermeneutic, applied for understanding terms related to the legal regulation of public administration bodies' activity in the electronic money sphere; general scientific research methods (logical, based on ascending from simple to complex, from abstract to specific as related to general characteristics of legal regulation in the sphere of electronic money turnover; special methods (systemic and structural, particularly in the process of providing legal support related to electronic money turnover, comparative legal research, aimed at the examination of foreign experience, formal legal or formal logical).

Results. According to the research results, the author has determined the publicity and transparency principles of administrative and civil legal regulation of public administration bodies activity in the sphere of electronic money turnover, where the principle of transparency allows to ensure the interaction between the state and its citizens in the form of exchange of information derived from all spheres or by granting access to such information, except for the information with restricted access. According to this principle, the activity of public administration bodies should be as transparent as possible, except in cases when it constitutes state secret. The principle of publicity not only ensures interaction between the state and its citizens, but also helps strengthen the rule of law. In turn, publicity as a principle of administrative and civil legal regulation of activities of public administration bodies in the sphere of electronic money turnover is a form of exercising public control over the activities of public administration. The principle of publicity characterizes democracy of public administration. Special emphasis is given to the need to legally enshrine electronic money as a means of payment in the legislation of Ukraine as the most convenient form of using electronic money, which allows to save on cash maintenance costs, reduce transaction time, and, at the same time, electronic money keeps having the same functions as traditional fiat money, which makes it highly plausible to get cash replicated with e-money, though such a transition still requires a developed and effective regulatory framework.

Practical implications. The results of this scientific article can be used in legislative framework for legal regulation of activities of public administration bodies in the sphere of electronic money turnover. The provisions of the article may also be used in scientific activities to further investigate the principles of publicity and transparency in administrative and civil legal regulation of the activities of public administration bodies in the sphere of electronic money turnover. In addition, the paper's provisions can be used for educational purposes, during lectures and seminars on civil, information and administrative law.

Value/originality. Scientific novelty of the obtained results is that the scientific article summarizes the existing normative and doctrinal approaches to understanding administrative and civil legal regulation of the activities of public administration bodies in the sphere of electronic money turnover; knowledge of the principles of publicity and transparency of administrative and civil legal regulation of activities of public administration bodies in the sphere of electronic money turnover has been systematized. The paper also identifies trends in the development of legal regulation in the sphere of electronic money turnover.

Key words: public administration, electronic money, electronic money turnover, administrative and civil legal regulation of electronic money, principle of transparency and publicity of legal regulation of electronic money turnover, electronic payment systems.

JEL Classification: H71, L81, E42

1. General problem statement and its relation to important scientific and practical tasks

In the current context, a significant number of legal entities operate both in real economic environment and in the framework of the virtual environment, which helps expand the ways they interact with customers using technical devices, such as personal computers, mobile phones. In such circumstances, the question arises if there is proper legal regulation of activities of public administration bodies in the sphere of electronic money turnover, which activities should be implemented taking into account principles of transparency and publicity.

It is important to realize that electronic money has become an essential element of e-commerce today. On the other hand, electronic money as a means of payment is superior to plastic cards or deposit money, since it is more convenient, faster and cheaper to use not only over the Internet, but also in real public and private legal relations.

It is necessary to note that Ukraine, on its way to integration with the international community, cannot remain aloof from processes occurring in particular in the field of information technology. Legal regulation of electronic money in our country is of particular

relevance. Electronic money means the equivalent of traditional (paper) funds in turnover within a specific electronic payment system. The essence of electronic money is the storage of monetary value electronically, i.e., using smart cards or a computer hard drive. Its turnover occurs through computer networks, the Internet, payment cards, electronic wallets and devices that work with payment cards (ATMs, POS-terminals). Accordingly, it is relevant to create an effective legal environment for the issuance and turnover of electronic money and exert state control over this area.

2. Analysis of the recent studies and publications that begin to address the issue and highlight the previously unresolved elements of the overall problem that the article deals with

The issue of legal regulation of electronic money was the subject of research of foreign scholars, in particular, M. King, M. Woodford, B. Summers, L. White, S. Klein, B. Schmidt and B. Friedman. Certain issues of legal regulation of electronic money were studied mainly from the position of legal regulation of its issuance, turnover, security of payments, information security in the electronic money system in scientific works of L. Baraban, N. Gryshchuk, Y. Boiko, I. Holosnichenko, P. Dikhtievskiy, O. Zaiarnyi, V. Kravets, I. Lavrynenko, O. Makhaieva, R. Melnyk, V. Mishchenko, A. Moroz, D. Naumenko, M. Romaniuk, M. Savluk, P. Senyshch, S. Shymon and others.

However, given the fact that money is considered to be a historical category, which develops at each stage of commodity production and which gains new value, complicated due to changing production conditions, certain aspects of modern money have not been subject to detailed analysis. Therefore, now, when the world is entering the era of electronic money and virtual history, the issue of legal turnover of electronic money is becoming of special relevance. In addition, the effectiveness of legal impact on public relations to a significant (if not decisive) extent depends on the timely alignment of legislation with the new needs of economic development. Thus, there is now a need for new research, due to changes in legal thought and legislation, whereas the accumulated material on this issue requires rethinking. That is why the topic of this scientific article is relevant.

3. Statement of objectives

The purpose of the article is to analyze administrative and civil law regulation of public administration bodies' activities in the sphere of electronic money turnover. The study is worthwhile for further analysis by domestic scholars, as the topic of legal regulation in the field of electronic money turnover is not well researched and

should develop dynamically, along with the increasing importance of electronic payment systems, and electronic money in particular. It is also important to study the role of public administration bodies in the researched area, taking into account the principles of publicity and transparency.

4. Discussion

Electronic money is actively used in financial systems of foreign countries, in particular the EU countries, so, given the European integration component of our country, electronic money turnover requires appropriate civil and administrative regulation by the state, including based on the principles of publicity and transparency.

Publicity and transparency principles of administrative and civil legal regulation in the sphere of electronic money turnover are modern universally recognized democratic values of the European civilization, which serve as a benchmark for state legal reforms in the countries of Central and Eastern Europe. Therefore, the study of their content becomes a priority for the implementation of Ukraine's European integration. In the past, in the doctrines of administrative law, these principles were unjustifiably replaced by the principles of public administration. This hindered democratic development of the national legal system.

In this regard, as A. Pukhtetska emphasizes, the principle of transparency provides for subordination of public administration bodies to external control, and the principle of transparency, in turn, suggests that, when examined in detail, the activity of these bodies has to be "looked through" for the purposes of control or supervision (Pukhtetska, 2014).

In addition, it should be emphasized that transparency as a principle allows us to achieve two important goals. The first is to protect public interests, as it reduces the likelihood of "mismanagement" and corruption. The second is that this principle (along with transparency) is necessary for protection of personal rights, since it determines the grounds for the adoption of administrative legal acts and, accordingly, gives the interested party the right to appeal against such acts.

Practical implementation of the principles of publicity and transparency is manifested in administrative law, for example, where administrative acts must be motivated and adopted by the authorized bodies; public registers shall be accessible to the general public; civil servants shall comply with certain restrictions on income from private activity.

Obligation of public administration bodies to indicate the reasons (grounds) for adoption of certain decisions is of particular importance for the implementation of the principle of publicity. An administrative act or decision must contain a list of grounds reflecting the general logic of the decision and demonstrate the conformity of the

actual circumstances of the case and their reflection in the current legislation. Accordingly, the list of grounds must contain facts and supporting evidences, as well as legal norms that are used.

Exploring the principle of transparency of administrative and civil legal regulation in the sphere of electronic money turnover, first of all it should be noted that the advantage of an open government, a transparent decision-making process means that citizens in one way or another become involved in development of an administrative decision, and therefore, with a higher probability will support its implementation. When citizens do not understand how a decision has been made, and they do not consider its consequences to be favorable for themselves, they tend to suspect the authorities of corruption and inefficient work. This thesis is extremely relevant for the sphere of electronic money turnover.

The principle of transparency is widely used and is not limited to particular areas of public relations. Thus, as a general rule, the activities of public authorities should be transparent and open today. And only in exceptional cases they should constitute a secret and be confidential.

It should once again be emphasized that transparency as a functional characteristic of state and local self-government bodies reveals the following: – the degree of direct participation of citizens in their activities; – level of public control over the activity of public authorities and administration; – the degree of ensuring real influence of citizens and their associations on public and administrative activity by requiring public authorities to make certain decisions, take actions or abstain from them (Shemshuchenko, 2012).

Transparency of state power means its readiness and ability to share this power by involving objects in the decision-making process and exercise of power.

In turn, publicity as a principle of administrative and civil legal regulation in the sphere of electronic money turnover is a form of exercising public control over the activities of public administration. By the way, such control can be carried out in form of public control, feasibility of the introduction of which is increasingly expressed by leading administrative scholars. Thus, O. Zaiarnyi emphasizes that there is no single approach to understanding the very definition of public control, its subjects, objects and functioning mechanisms, and that control functions of public control entities are enshrined in a variety of normative acts, hence the blurred understanding of its functions as a whole (Zaiarnyi, Savchuk, 2014).

In general, in etymological sense, "publicity" is defined as: 1) general acquaintance and discussion, control; 2) public disclosure; 3) public awareness of something, announcement (Slovnyk ukrainskoi movy, 2010). In turn, authors of a Legal Encyclopedia suggest the definition of the term "publicity", whereby publicity is one of the principles of democracy, guaranteeing the

effective functioning of all its institutions; activities of state bodies, local self-government bodies and associations of citizens; exercise of right to information (Shemshuchenko, and others, 1998).

It is necessary to note that at the end of the 1980s there was a great debate about defining publicity as a legal category. Some scholars tried to develop publicity into a principle. Thus, V.A. Kriazhkov defined publicity as the principle of socialist democracy, which ensures such a regime of political life when state and public authorities operate transparently and systematically inform the population about their activities. Other scholars suggested that publicity should be defined through a set of requirements for the activities of public authorities. Y.M. Baturin and V.A. Tumanov gave the following definition: «Activity of state bodies, public organizations and officials is based on publicity, which is expressed through: a) transparency of their activity; b) the right of citizens, their associations, other organizations to obtain information; c) obligation to take into account public opinion when making important decisions on public and social life; d) widely publicized statistics and other information and materials on public and social life" (Baturin, 1989; Bezuglov, 1988).

Despite the outward differences between the above interpretations, they are essentially similar. Thus, based on these definitions, most of the leading scholars identify the following major elements of publicity:

- 1) the right of citizens to discuss activities of public authorities, to criticize, comment and make suggestions on issues of public and social life, in particular through mass media, and to use information obtained in any other way that is not contrary to the law;
- 2) transparency of the activity of public authorities, that is, a regime where all interested parties may visit and monitor the progress of activity of any public authority;
- 3) informing the public about functioning of the state bodies and the adopted decisions, that is, about the activity of the state bodies in terms of information disclosure.

By attributing these elements to the definition of publicity makes it possible to view it in a very broad sense, even to identify it with transparency of public administration bodies.

In general, in the broadest sense, publicity, first and foremost, is transparency and openness of the activity of state structures, as a prerequisite for democratic decision-making, as well as public awareness of all socially significant problems affecting their interests (Afonin, Sushii, 2010). In other words, publicity means: transparent activity of state bodies, public organizations and officials; providing citizens and their associations with information necessary to participate in discussion and resolution of matters of state and public life, as well as matters concerning their rights, duties or legitimate interests; availability of organizations, institutions and officials for meeting with citizens; possibility for the

citizens to freely submit their proposals and statements; identifying, studying and taking into account public opinion in the development and decision-making process; publicizing the adopted decisions and bringing them to the attention of citizens; awareness, accessibility, taking into account of public opinion, promulgation of the adopted decisions.

Scientific literature emphasizes that the principle of publicity characterizes democracy of public administration, in its turn, open and transparent work of public authorities enables citizens to directly get acquainted with public administration (*Vidkrytist ta prozorist orhaniv derzhavnoi vldy...*). In other words, publicity is directly related to democratism of public authorities, which indicates their desire to be closer to the people and to more effectively ensure efficient public administration.

In this context, it is possible to cite the position of scholars who believe that the mechanism of publicity is a complex, versatile process, which requires focused work to increase the level of activity, political and legal awareness of the people, instilling in the public the desire for constant and active participation in public administration (Bezuglov, 1988). Indeed, publicity is a complex process that combines awareness of the people and effectiveness of public administration.

Thus, publicity can be understood in a broad sense as a democratic constitutional principle of the social relationship between the society and the state; in the narrow sense, it is a legal principle, implemented through disclosures to the society and in the activities of the public authorities.

Publicity as a state and legal phenomenon is characterized by the following elements: transparency of activity of public administration bodies and their adoption of government and administrative acts, public opinion on political, social, economic and other situation in the country, as well as its consideration by the state authorities (*Vidkrytist ta prozorist orhaniv derzhavnoi vldy...*). Disclosure of information to the society ensures citizens' control over public authorities, which promotes democratisation of all social institutions in the country and further development of the principle of publicity.

In addition, the procedural nature of publicity of administrative and civil legal regulation should become an essential element in the sphere of electronic money turnover, which means express enshrining and regulation in the Ukrainian legislation and the possibility for further implementation in the form of rights and duties of individuals and legal entities, as well as public authorities, which are guaranteed by the state coercive power. In other words, it is a norm failure to comply with which gross violation of the law shall constitute.

Publicity can also exert control functions in the field of legal regulation of electronic money turnover. Since

publicity is a form of control over the activity of public authorities, it is aimed at measures to prevent corruption and unlawful acts, and to some extent contributes to stimulating professional development in this area (Kondratenko, 2015).

It is important to note that, although they have many things in common, the principles of publicity and transparency of administrative and civil legal regulation in the field of electronic money turnover are still different. Transparency means the availability of electronic money for all citizens, while publicity means not only availability, but also the possibility for the general public to discuss the progress and results of such a process, that is, a way of forming public opinion, its evaluation of activities related to electronic money turnover, which public administration authorities should take into account in order to improve their work.

In the context of the topic of the article, it is worth mentioning the position of R. Melnyk, who draws attention to the new interpretation of public administration and the purpose of public administration as a whole. Thus, according to the scholar, public administration can be carried out both in compulsory and non-compulsory (public service) manner (Melnyk, 2012). Such an approach seems to be justified in the current conditions of civil society development and should also be used in the administrative, civil and legal regulation of activities of public administration bodies in the sphere of electronic money turnover, taking into account principles of transparency and publicity.

In Ukraine, as of 2020, citizens have access to various types of electronic payment instruments. In such circumstances, the Ukrainian market urgently requires a modern, clear and transparent legal framework based on best international experience, with a balance between protecting consumer rights, public oversight of the functioning of electronic payment instruments, electronic money systems and promoting their development (Kravchuk, Naumenko, Glybovets, 2014).

In order to regulate activities related to the issuance of electronic money in Ukraine and to introduce monitoring of such activity, the NBU Board with its Resolution approved Regulation "On Electronic Money in Ukraine" as amended on 12 September 2019 (*Polozhennia «Pro elektronni hroshi v Ukraini»*). This Regulation set requirements of the National Bank for the subjects of issuance, turnover and redemption of electronic money, as well as for electronic money systems in Ukraine. However, in practice, the issue of payments using electronic money, that remained unresolved for many years, led to civil and legal problems and caused contradictions as to how they should be reflected.

It should also be noted that according to the Law of Ukraine "On Payment Systems and Funds Transfer in Ukraine", electronic money is a unit of value stored electronically and accepted as a means of payment by an entity other than its issuer and constitutes monetary

obligation of such an entity, either in cash or in non-cash form" (Zakon Ukrainy «Pro platizhni systemy ta perekaz koshtiv v Ukraini»).

Legal definition of the term "electronic money" for the countries of the European Union is provided for in the Directive of the European Parliament and of the Council of Europe 2009/110 EU on the initiation and implementation of activities of electronic money issuers, as well as prudential supervision of such activities, dated September 16, 2009. The Directive defines electronic money as monetary value that is a claim on the issuer and which: (a) is electronically stored; b) is issued on receipt of funds at a value not less than the issued cash value; .c) is accepted as a means of payment by enterprises other than the issuer (Baraban, 2014).

Electronic money is a complex legal and economic category that is of great interest to both the scientific community and the regulators of payment transactions. In addition, according to statistics, in terms of use of electronic money for payment purposes, significant interest is expressed by its users: individuals and legal entities (Yesimov, 2014). In general, electronic money is now one of the newest means of payment of revolutionary significance. Electronic money is one of the most promising innovative payment tools. With the advent of electronic money, it has become an issue how to define both theoretical and practical basis for functioning of the newest payment instruments in a market economy and assessing their value in the country's monetary turnover, establishment of appropriate legal regulation and their introduction into civil turnover.

The issue of enshrining financial and legal nature of electronic money in regulatory acts is crucial, as further development of financial and legal regulation of electronic money turnover depends on this. In countries where electronic money is recognized as monetary value stored electronically (for example, the EU countries), financial and legal regulation is developed by legislative introduction of methods for such regulation by providing for licensing of issuers of such money, establishing requirements for minimum size of their charter capital, providing for financial liability for failure to comply with these requirements, etc. In countries where electronic money is treated as a form of obligation, financial and legal regulation of its turnover is advisory (Riadinska, 2016).

The widespread use of electronic money leads to formation of a new system of payments and a powerful financial superstructure, which, on the one hand, leads to new opportunities for growth and, on the other, to alignment of the national legislation with the norms of the European Union, which govern the financial sector of the economy. Expanded use of electronic money, which occurs simultaneously with the rapid development of telecommunication technologies, is able to radically change the existing mechanism of functioning of the monetary system of Ukraine (Yesimov, 2014).

In Ukraine, regulation of relations in the sphere of electronic money is carried out by general and special legislation: the Civil Code of Ukraine No. 435-IV dated January 16, 2003; the Law of Ukraine "On Payment Systems and Funds Transfer in Ukraine" No. 2346-III dated April 5, 2001; Resolution of the Board of the National Bank of Ukraine "On Performance of Transactions with Special Payment Instruments" No. 223 dated April 30, 2010; Resolution of the Board of the National Bank of Ukraine "On Amendments to Certain Regulatory and Legal Acts of the National Bank of Ukraine on Regulation of Issuance and Turnover of Electronic Money" No. 481 dated November 4, 2010, approving the Regulation on Electronic Money (Shlapko, 2017).

In order to regulate activities related to the issuance of electronic money in Ukraine and to introduce monitoring of such activities, the NBU Board approved the Regulation "On Electronic Money in Ukraine" (Polozhennia «Pro elektronni hroshi v Ukraini»). This Regulation set requirements of the National Bank for the subjects of issuance, turnover and redemption of electronic money, as well as for electronic money systems in Ukraine. However, in practice, the issue of payments using electronic money, that remained unresolved for many years, led to civil and legal problems and caused contradictions as to how they should be reflected.

The lack of legal base for accounting for electronic money has given rise to a number of opinions in the scientific and professional community on how to address this problem.

In domestic accounting, the term "electronic money" was legally defined a little later, together with establishing the order of accounting for electronic money, in compliance with the Order of the MFU "On Approval of Changes to Some Regulations of the Ministry of Finance of Ukraine on Accounting" No. 627 dated June 27, 2013. Electronic money means units of value that: 1) are stored electronically, 2) are accepted as a means of payment by an entity other than the issuer, 3) constitute a monetary obligation of that entity, either in cash or in non-cash form" (Baraban, 2014). However, pre-paid single-purpose cards are not recognized as electronic money: merchant discount cards, gas station cards, public transport tickets, etc., which are accepted as a means of payment exclusively by their issuers.

According to the legal concept of electronic money, by its civilistic nature, it is a monetary obligation, which, on the basis of a civil law contract, an agreement of two parties, whereas one party, an individual or business entity, expressed a desire to exchange cash or non-cash money for electronic money. It is the will of the individual or business entity, and not the will of the issuer, that is the main condition for issuing electronic money, as opposed to the issuance of the hryvnia as a legal means of payment in Ukraine, whereas it is the National Bank of Ukraine that has the exclusive right

to enter it into turnover. The reason why electronic money is now regarded as a monetary obligation can be explained by historical analogy with other types of money: in due course banknotes were also treated as payable by metal coins and non-cash as repayable by metal or paper money. Legislation of Ukraine may be amended over time, and the National Bank of Ukraine will be able to issue electronic money as a form of money (Petrofanova, 2016).

Electronic money belongs to non-material property objects of civil rights and constitutes a perfect thing. In its essence, electronic money can be considered as "private money", issued personally at the request of the user by the appropriate banking institution, which at its own expense provides for its property value, guaranteeing its exchange for legal means of payment: cash or non-cash money (Shymon, 2015).

In general, the term "electronic money" has been used at various times to refer to various technological processes in banking and payment system. Primarily they were referred to electronic money transfer systems, then payment systems using credit/debit cards (Shymon, 2015).

Since the second half of the 2010s, the term "electronic money" (E-money) has acquired a specific economic definition and has been limited to new electronic means of payment that use electronic script, which script the payer passes to payee on payment. Thus, the money received a new design that meets the requirements of modern property turnover more closely. The legal nature of such money has become the subject of international scientific debate.

Digital money or cryptocurrency theories are just being developed. According to the ITExpert online resource, as of September 7, 2014, three US universities have introduced online courses to teach cryptocurrencies, in particular, bitcoin ("ITExpert"). Wikipedia, free encyclopedia, defines bitcoin as a peer-to-peer electronic cash system that uses the homonymous digital currency, often called cryptocurrency or virtual currency. The network is fully decentralized, with no central administrator or any equivalent thereof (Wikipedia Free Encyclopaedia). Bitcoin exchange rate against the US dollar as of October 10, 2014 was as follows: 1 Bitcoin (BTC) equaled 370.97 USD, and respectively 1 USD equaled 0.002696 Bitcoins (BTC). Bitcoin turnover in world markets peaked at the end of 2013 at around 14 billion USD, but has since dropped to 8 billion USD. We believe that cryptocurrency is another embodiment of the economic essence of money that has yet to be studied (Isaiev, 2014).

It should also be noted that in domestic practice of legal regulation of electronic money there remains the following problematic issue: how to identify the primary document in order to record transactions in electronic money. Electronic money settlements with non-residents of Ukraine in international e-commerce are

unregulated. The use of electronic money, expressed in foreign currency, when calculating and conducting cross-border transfers requires a legislative solution (Kravchuk, Naumenko, Glybovets, 2014; Baraban, 2014).

In addition, government regulation should encourage the widespread adoption of innovative payment instruments and, at the same time, ensure interests of users in terms of security of e-money transactions, especially given the fact that problems with the loss of e-money through fraudulent transactions and any delays in e-money redemption may have negative impact on the stability of the market as a whole. The regulator's task should also be to ensure equal conditions for competition in the market and the absence of excessive barriers to enter this market, since such regulation should comply with Ukraine's obligations under the GATT and WTO, and Ukraine's state policy should align its legislation with the European standards, as well as the process of Ukraine's integration into the EU (Kravchuk, Naumenko, Glybovets, 2014).

According to S. Yesimov, it is necessary to improve legal regulation of functioning of electronic money in three directions:

- institutional direction involves the development of relations in order to increase competition and lower the entry threshold for new participants;
- infrastructural direction is related to increasing the availability of electronic money and expanding the scope of its application, through development and legalization of payment instruments, as well as standardization and unification of the technological component through implementation of the relevant technical regulations of information support;
- ensuring and improving security of payment transactions using electronic money within the framework of information security (Yesimov, 2014).

International experience demonstrates that development of the electronic money market depends to a large extent on effective legal regulation. The issue of enshrining the financial and legal nature of electronic money in regulatory acts is crucial, since further successful introduction of electronic money in the payment turnover depends on this. In order to improve and solve modern problems of electronic money turnover in Ukraine, it is necessary to apply the experience of foreign countries: to improve and adapt the legislative base to changing conditions, to introduce new electronic payment systems, to create a single body for its regulation and to increase the security of payment transactions that uses electronic money (Shlapko, 2017).

The main obstacle associated with the prospect of the development of electronic money in Ukraine is its legal definition and legislative regulation. Since issuance of electronic money, in the absence of proper legislation, is regulated by the rules on the issuance of payment cards and is carried out in Ukraine only by banks, the software-based electronic money payment systems and

non-bank issuers of this money operate in conditions of legal uncertainty. That is why legislative background is the first point in regulation of electronic money in Ukraine (Mokiienko, Pryidak, Lipskyi, 2019).

5. Conclusions and prospects for further studies

Thus, the development of electronic money turnover depends to a large extent on effective administrative and civil legal regulation of the activities of public administration bodies. In addition, the activities of public administration bodies in the area of electronic money turnover should be based on the principles of transparency and publicity. Where, transparency means the availability of electronic money for all citizens, and publicity means not only availability, but also the possibility for the general public to discuss the progress and results of such a process, that is, a way of forming public opinion, its evaluation of activities related to electronic money turnover, which public administration authorities should take into account in order to improve their work.

It should also be noted that nowadays the sphere of electronic money turnover is developing very fast, the legislation does not always keep up with these trends, and therefore, in practice money turnover operates ahead of the regulatory base. It is possible to find a way out of this situation through the creation of a single regulatory body of electronic money, together with ensuring principles of publicity and transparency of administrative and civil legal regulation in the sphere of electronic money turnover. The existing legal framework enables to resolve problems in development of the electronic money system. At the same time, legislation regarding the functioning of electronic money, taking into account existing international experience, needs to be further improved.

The issue of enshrining the financial and legal nature of electronic money in regulatory acts is crucial, since further successful introduction of electronic money into the payment turnover depends on this. In order to improve and solve the current problems of electronic money turnover in Ukraine, it is necessary to apply the experience of foreign countries: to improve and adapt the legal framework to changing conditions, introduce new electronic payment systems, create a unified regulatory authority, ensure reliability of electronic money issuers, and increase the security of payment transactions that use electronic money.

In addition, as the leading international practice demonstrates, in order for the regulatory system to be effective and stimulate the development of the electronic money market, the following aspects should be enshrined at the legislative level: – a wide range of companies (and not just banks) should be authorized to issue electronic money; – at the same time, in order to be authorized to issue electronic money, a company must meet the requirements regarding the size of its charter capital, technical capacity and business reputation. In this case, the size of capital should be significantly less than that set for banks; – electronic money should be allowed for all types of payments between individuals, legal entities and the public sector; – the users should be able to redeem electronic money by investing the attracted funds into liquid and safe assets; – the activities for the issuance, turnover and redemption of electronic money should be isolated from transactions that are not related to payment services; – in order to avoid the risk of money laundering, anonymous electronic money transactions should be limited in size and legal entities conducting such transactions and having appropriate accounts in electronic money systems should register them in accordance with the requirements of tax law. Possible abuses in the electronic money system should also be monitored.

References:

- Pukhtetska, A. A. (2014). Aktualni problemy onovlennia systemy pryntsyypiv administratyvnoho prava Ukrainy [Current problems of updating the system of principles of administrative law of Ukraine]. *Legal Studies*, no. 155, pp. 67–72. (in Ukrainian)
- Shemshuchenko, Y. S. (ed.) (2012). *Velykyi entsyklopedychnyi yurydychnyi slovnyk* (2). Kyiv: Yurydychna Dumka. (in Ukrainian)
- Zaiarnyi, O. A., & Savchuk, E. Y. (2014). Analiz deiakykh administratyvno-pravovykh norm shchodo zdiisnennia hromadskoho kontroliu v Ukraini [Analysis of Certain Administrative and Legal Norms on Exercise of Public Control in Ukraine]. *Pivdennyi regionalnyi tsentr NAprN Ukrainy*, no. 1, pp. 44–46. (in Ukrainian)
- Slovnyk ukraïnskoi movy (2010). [Ukrainian Language Dictionary]. Kyiv: Naukova Dumka, 1, A–B, 911 p. (in Ukrainian)
- Shemshuchenko, Y. S. and others (1998). *Yurydychna entsyklopediia* [Legal Encyclopedia]. Ukr. entsykl. im. M. P. Bazhana, 1, A–D, 672 p. (in Ukrainian)
- Baturin, Y. M. (1989). *Vozmozhen li zakon o glasnosti?* [Can There Be a Law on Publicity?]. *Glasnost: Mneniia. Poiski. Politika: Sbornik*, 289 p. (in Russian)
- Bezuglov, A. A. (1988). *Glasnost Raboty Sovetov* [Publicity of the Soviets Activity]: [monograph]. *Legal Literature*, 144 p. (in Russian)
- Afonin, E. A., & Sushii, O. V. (2010). *Transparentnist vlady v konteksti yevropeyskoi intehratsii Ukrainy: konspekt lektsii do korotkotermynovoho seminaru v systemi pidvyshchennia kvalifikatsii kadriv* [Transparency of Power in the

Context of European Integration of Ukraine: Lecture Summary for a Short-Term Seminar in the Personnel Training System]. NADU, 48 p. (in Ukrainian)

Vidkrytist ta prozorist orhaniv derzhavnoi vlady v konteksti zakonodavstva pro dostup do publichnoi informatsii (2012). [Openness and Transparency of Public Authorities in the Context of Legislation on Access to Public Information]. Ivano-Frankivskiy tsentr nauky, innovatsii ta informatyzatsii. Ivano-Frankivsk, 115 p. (in Ukrainian)

Kondratenko, V. M. (2015). Sutnist prozorosti zdiisnennya protsesualnykh dii v administratyvnomu protsesi Ukrainy [The Essence of Transparency when Implementing Procedural Actions in the Administrative Process of Ukraine]. *Porivnialne administratyvne parvo*, no. 1, pp. 188–194. (in Ukrainian)

Melnyk, R. S. (2012). Katehoriia "publichne upravlinnia" u novii interpretatsii [The Category of "Public Administration" in New Interpretation]. *Pravo i suspilstvo*, no. 6, pp. 95–98. (in Ukrainian)

Kravchuk, V., Naumenko, D., & Glybovets, A. (2014). *Elektronni groshi v Ukraini* [Electronic Money in Ukraine]. Analytical Report. Alpha-PIK, 64 p. (in Ukrainian)

Polozhennia «Pro elektronni hroshi v Ukraini», zatverdzhene postanovoiu NBU v redaktsii 12.09.2018 [Regulation "On Electronic Money in Ukraine", approved by the NBU Resolution dated 12 September 2018]. Retrieved from: <https://zakon.rada.gov.ua/laws/show/z1336-10#n19> (accessed 19 February 2020). (in Ukrainian)

Zakon Ukrainy «Pro platizhni systemy ta perekaz koshtiv v Ukraini»: za stanom na 7 liut. 2019 r. [Law of Ukraine "On Payment Systems and Funds Transfer in Ukraine" dated 7 February 2019]. Retrieved from: <https://zakon.rada.gov.ua/laws/show/2346-14> (accessed 19 February 2020). (in Ukrainian)

Baraban, L. M. (2014). Elektronni hroshi: mozhlyvosti, tendentsii ta perspektyvy rozvytku v Ukraini [Electronic Money: Opportunities, Trends and Prospects for Development in Ukraine]. *Finansovyi prostir*, no. 3, pp. 10–17. (in Ukrainian)

Yesimov, S. S. (2014). Informatsiino-pravovi zasady rehuliuвання obihu elektronnykh hroshei u konteksti rozshyrennia zastosuvannya [Informational and Legal Bases for Regulation of Electronic Money Turnover in the Context of Expanding Usage]. *Bulletin of the National University "Lviv Polytechnic". Legal Studies*, no. 810, pp. 22–27. (in Ukrainian)

Riadinska, V. (2016). Problemy pravovoho rehuliuвання obihu elektronnykh hroshei v Ukraini [Problems of Legal Regulation of Electronic Money Turnover in Ukraine]. *Pidpryyemnytstvo, hospodarstvo i parvo*, no. 12, pp. 190–195. (in Ukrainian)

Shlapko, T. V. (2017). Zarubizhnyi ta vitchyzniani dosvid pravovoho rehuliuвання obihu elektronnykh hroshei [Foreign and Domestic Experience in Legal Regulation of Electronic Money Turnover]. *Pravovi horyzonty*, no. 5(18), pp. 113–119. (in Ukrainian)

Petrofanova, K. R. (2016). Osoblyvosti pravovoi rehlementatsii elektronnykh hroshei v Ukraini: tsyvilno-pravovyi aspekt [Features of Legal Regulation of Electronic Money in Ukraine: Civil Law Aspect]. *Teoriya i praktyka pravozaavstva*, no. 2, p. 10. (in Ukrainian)

Shymon, S. (2015). Elektronni hroshi: forma hroshei chy mainovi prava vymohy? [Electronic Money: a Form of Money or Property Claim Rights?]. *Yurydychna Ukrayina*, no. 9, pp. 36–41. (in Ukrainian)

"ITExpert". Retrieved from: <http://itexpert.org.ua/rubrikator/item/38036-tri-vuza-started-bitcoin-kursydlya-studentov.html> (accessed 19 February 2020). (in Ukrainian)

Wikipedia Free Encyclopaedia. Retrieved from: <https://en.wikipedia.org/wiki/Bitcoin> (accessed 19 February 2020). (in Ukrainian)

Isaiev, A. M. (2014). Henezys hroshei u tsyvilno-pravovomu aspekti [Genesis of Money in Civil Law]. *Problemy zakonnosti*, no. 127, pp. 33–38. (in Ukrainian)

Mokiienko, T. V., Pryidak, T. B., & Lipskyi, R. V. (2019). Elektronni hroshi: sutnist, klasyfikatsiia ta oblikove vidobrazhennia [Electronic Money: Essence, Classification and Accounting]. *Efektivna ekonomika*, no. 6, p. 12. (in Ukrainian)