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Electronic Money and Digital Currencies: A Comparative Study of Their Legal Nature

Rafad Ali Hussein
University of Al-Qadisiyah – University Presidency, Iraq

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ABSTRACT

Objective: *The purpose of the current research is to explore the concepts of electronic money and digital currencies and make an analysis of their characteristics and legal nature through comparing them taking into consideration the fast evolution of the digital financial market. The relevance of the research lies in the wide-spread use of digital means of payments and legal problems that arise from the necessity of regulation and protection of users.* ***Method:*** *An analytical and comparative method has been used in the process of the research. Legal acts, jurisprudence and legislation regarding electronic money and digital currencies have been studied.* ***Results:*** *The show that the concept of electronic money is connected with the traditional fiat currency, which is issued by the licensed financial institutions and regulated by the monetary authorities. On the other hand, digital currencies, especially cryptocurrencies, are characterized by their decentralization and not always the control of a particular official authority. The research shows that electronic money and digital currencies have some similar economic features and use digital technologies for their transactions. However, there are certain differences in the issues of issuance, regulation, and legal protection.* ***Novelty:*** *As a conclusion, it can be stated that there is a necessity for development of special legal framework for regulation of electronic money and digital currencies.*

INTRODUCTION

Over the past few decades, there has been remarkable growth in the domain of information and communication technologies, which has directly affected economic and financial matters and led to the evolution of modern payment systems, which have surpassed the conventional constraints related to paper money and metal currency. Some of the most popular forms of modern payments include electronic money and digital currencies, which have become some of the most important examples of digitalization in the financial industry. They have helped in carrying out financial transactions more efficiently, promoting electronic commerce, and making payments and financial transfers possible locally and internationally.

As the use of electronic money and digital currencies has grown, several legal problems have come up relating to the legal nature of such monies and the possibility of considering them as money from the traditional legal perspective. Another question relates to the legal nature of persons who operate such currencies and the degree of regulation over such monies by monetary authorities. This has resulted in efforts by many countries and international organizations in creating legal and regulatory frameworks for ensuring that the advantages of such financial tools can be exploited without facing the dangers related to them.

First: Significance of the Research

The significance of this research lies in the increasing importance that electronic money and digital currencies are acquiring owing to the shift towards the digital economy, as they have come to represent an effective tool for making financial and commercial transactions electronically. The importance of the research is also apparent in its attempt to find out the legal nature of both electronic money and digital currencies and to uncover the similarities and differences between them, especially in light of the divergence of legislative and jurisprudential attitudes regarding them. The research is also useful in shedding light on the legal problems involved in the utilization of these new financial tools, as well as whether the traditional legal regulations are enough for controlling them. The research can thus be said to possess scientific and practical importance.

Second: Research Problem

The research problem is that of the ambiguity that surrounds the legal nature of electronic money and digital currencies and the ensuing difficulty of identifying the legal status of those dealing with them and the legal effects emanating from their use. A number of issues are also raised as to the degree to which these devices could be treated as legal tenders, the extent of their exposure to monitoring and control by the concerned monetary bodies and the capacity of legislation to keep up with the rapid technological advancements in them. Consequently, the research problem could be defined in the following central question:

What is the legal nature of electronic money and digital currencies and what are the points of consensus and differentiation between them from the legal standpoint?

Third: Research Methodology

This research makes use of the analytical approach in studying and analyzing the legal texts and jurisprudences relating to electronic money and digital currencies so as to identify their legal nature. This research also utilizes the comparative approach in comparing the legal provisions concerning electronic money and digital currencies and discovering the similarities and differences between them as well as taking advantage of some comparative legislations and modern regulatory approaches with regard to the subject of research.

Fourth: Research Plan

The nature of this research requires dividing it into two basic sections, preceded by this introduction and succeeded by a conclusion that includes the most important findings and recommendations, as follows:

Section One: Essence of Electronic Money and Digital Currencies and Their Legal Nature.

• Subsection One: The Concept of Electronic Money and Its Features.

– Branch One: Definition and Emergence of Electronic Money.

– Branch Two: Legal and Economic Features of Electronic Money.

• Subsection Two: Concept of Digital Currencies and Their Legal Nature.

– Branch One: Definition and Kinds of Digital Currencies.

– Branch Two: Legal Features of Digital Currencies and Attitude of Legislation to Them.

Section Two: Points of Comparison Between Electronic Money and Digital Currencies in Terms of Legal Nature.

• Subsection One: Similarities and Differences Between Electronic Money and Digital Currencies.

– Branch One: Similarities in Functions and Legal Features.

– Branch Two: Differences in Issuing, Monitoring and Legal Security.

• Subsection Two: Legal Effects Resulting from Dealing in Electronic Money and Digital Currencies.

– Branch One: Legal Responsibility for Their Circulation.

– Branch Two: Legal Safeguard of Users and Legislative Issues.

Section One

The Essence of Electronic Money and Digital Currencies and Their Legal Nature

As a result of the fast technological progress in the area of communications and information technology, new types of payment instruments and means of financial transactions have appeared, namely, electronic money and digital currencies, which have become a part of the current financial system. However, these instruments have caused many legal and jurisprudential problems related to the concept, legal nature, and scope of application of the rules relating to traditional money to them. Their wide use has caused different legal attitudes toward these issues between different countries, and thus, their essence, features, and legal bases need examination.

Thus, this topic will be addressed through two subtopics. The first subtopic is dedicated to discussing the concept of electronic money and its features, while the second subtopic is dedicated to discussing the concept of digital currencies and their legal nature.

Subsection One

The Concept of Electronic Money and Its Characteristics

Electronic money is one of the most significant innovations generated by the digital revolution since it performs a number of functions of traditional money, but differs from it in terms of the media of circulation. As a result of its wide use, it has become necessary for legal scholars and legislations both at national and international levels to formulate a clear definition of it and its main characteristics. Thus, it is necessary, first, to define the concept of electronic money and explain how it originated, and, second, to identify its main legal and economic features.

Thus, this subtopic will be addressed through two topics. The first topic is dedicated to defining electronic money and its origin, while the second topic is dedicated to defining the main features of electronic money.

Branch One

The Definition and Emergence of Electronic Money

The notion of electronic money can be defined as a fairly recent phenomenon in the legal and economic literature, as it arose against the backdrop of the constant evolution of electronic forms of payment as well as the development of technology in the finance industry. The advent of the Internet and e-commerce played a vital role in broadening its range of application, which resulted in its transformation into one of the key ways of performing financial transactions in numerous countries all around the globe. [1]

From the standpoint of jurisprudence, there were numerous definitions of the notion of electronic money based on varying economic and legal approaches to it. However, they generally agree on the fact that electronic money is a value of monetary nature stored in a certain electronic form, and can be applied to settle financial obligations, being recognized as such by the multiple entities besides the issuer. [2]

In addition to the above, electronic money can also be interpreted as a monetary unit of digital type representing real monetary value, which is issued in return for the deposit of a monetary equivalent to the issuing institution, being stored electronically through the use of smart cards, e-wallets, and other digital devices, which makes it possible for the electronic money to be circulated and used in the process of payments and financial transfers. [3]

The origins of electronic money go back to the development of electronic banking systems in the second part of the twentieth century, in particular to the emergence of interbank financial transfers. Following the technological development in the 1980s and 1990s, smart cards and e-wallets appeared, becoming the basis of electronic money in its modern shape. This process was greatly boosted by the development of the Internet and international e-commerce. [4]

In the beginning of the twenty-first century, electronic money has seen a marked increase in its range of application due to the rapid development of fintech and the growing popularity of smartphones and mobile applications. It gave rise to the need of many countries to introduce certain legislation and regulations related to the issuing and circulation of electronic money as well as the responsibilities of its users. [5]

Branch Two

The Legal and Economic Characteristics of Electronic Money

The characteristics of electronic money can be identified within the legal and economic contexts, which distinguish it from traditional money and other modern payment methods. Indeed, electronic money is an advanced type of monetary value that is circulated through electronic devices, thus gaining growing importance in contemporary financial and commercial processes. It is essential to understand such characteristics in order to comprehend the legal nature of electronic money and the place of it in the modern monetary system, as well as the consequences that occur due to its use.

It is possible to identify the most evident legal characteristics of electronic money. First of all, it can be stated that electronic money represents the value of money that is stored electronically and expresses a certain amount of money that can be used for the fulfillment of different financial duties. This monetary value acquires its legal status only when it is issued by the officially authorized organization and controlled by monetary authorities. It makes this monetary instrument different from many decentralized digital currencies that are not issued by any official organization. [6]

Secondly, electronic money is distinguished by the fact that it represents a legal duty of the issuing company towards its holder, since the user has the opportunity to exchange its monetary value under the relevant legal and regulatory controls. This characteristic proves the existence of the direct legal connection between the issuer and the recipient of money, thus guaranteeing the legal protection of users of electronic money. [7]

Another characteristic of electronic money is that it is subject to the financial and banking regulations and legislation that governs its issuance and circulation. Contemporary legislation implies a set of obligations of issuing entities regarding the protection of customers' funds, anti-money laundering, anti-terrorist financing, and security of electronic transactions. [8]

On the other hand, there are several economic characteristics of electronic money. First of all, the use of electronic money guarantees convenience and rapidity of the process of circulation since individuals and organizations have an opportunity to perform payment and financial transfer procedures quickly without the physical movement of money. [9]

Moreover, one of the economic characteristics of electronic money is that it has lower costs of use compared with traditional payment methods since the use of electronic money allows to reduce costs of printing, transportation, storage, and protection of money, as well as decrease the burden on financial and banking organizations. This characteristic leads to the widespread use of electronic money in electronic commerce. [10]

One of the significant economic characteristics of electronic money is that it contributes to economic development and supports electronic commerce. Electronic money gives an opportunity to obtain an efficient payment method in line with the modern digital economy, increase the volume of commercial transactions both domestically and internationally, and achieve the higher level of financial inclusion due to the availability of financial services to different segments of population that do not have traditional bank accounts. [11]

Despite the great number of advantages possessed by electronic money, its use faces some economic and legal challenges. The most important of them include the risks connected with cybersecurity, protection of personal data, the opportunity of electronic hacking, and the necessity to develop the relevant legislative framework in line with rapid development of financial technologies. [12]

Subsection Two

The Concept of Digital Currencies and Their Legal Nature

The speedy advancement of information and communication technologies has resulted in the creation of different types of digital assets that fulfill various financial and economic roles, especially digital currencies, which represent one of the most significant breakthroughs in the area of modern financial technology. These currencies have garnered much interest among jurists, legislators, and monetary authorities due to their unique character and their economic and legal implications, especially with the growth of their use in financial and investment dealings worldwide.

In light of the fact that digital currencies are distinct from electronic money in regard to their means of issuance, regulation, and supervision, there arose a necessity to research on their concept and categorize them, besides understanding their legal nature and the level of applicability of the conventional laws of money onto them. Therefore, this sub-section shall be tackled by means of two streams. The first stream shall be dedicated to the definition of digital currencies and their classification, whereas the second stream shall deal with the legal characterization of digital currencies and the legislative stance towards them.

Branch One

The Definition and Types of Digital Currencies

Indeed, digital currencies can be regarded among the modern financial phenomena that have appeared as a result of great development of digital technologies, including encryption technologies and blockchain technology. Spread of the Internet and digital applications has led to greater dependence on digital currencies as a medium of exchange, investment, or a store of value. Although digital currencies have relatively recently appeared, they became an economic and legal phenomenon, which requires national and international legislation regulating this issue. [13]

Legal literature did not manage to reach agreement on the definition of digital currencies. Nevertheless, the most popular definition describes digital currencies as digital units of financial value, which are transferred through digital networks and used as a means of exchange, payment, or investment. Existence and circulation of digital currencies are based on the use of advanced electronic technologies and do not require a tangible physical shape. [14]

Digital currencies are also understood as encrypted digital assets that are generated and circulated with the help of the modern encryption technologies. One of the features distinguishing digital currencies, at least certain kinds of them, from other phenomena, is the possibility of transfer between users through the network without the help of a financial intermediary. It differentiates digital currencies from electronic money that is usually issued by financial institutions and is under state control. [15]

Classifying digital currencies is connected with dividing them into several kinds according to the basis of their issuance and working method. First, there are centralized digital currencies that are issued by a certain central authority or official institution and are regulated by it directly. Recently, many central banks have moved toward the study or issuance of official digital currencies called central bank digital currencies (CBDCs). [16]

Secondly, decentralized or cryptocurrency digital currencies are those kinds of currencies that are not under any kind of central authority and use blockchain technologies and encryption technologies for their generation, circulation, and verification of transactions. Bitcoin is one of the most famous examples of cryptocurrency, which was developed in 2009 and marked the beginning of the era of digital currencies. [17]

Stablecoins are another kind of digital currencies, the value of which depends on a certain asset, whether it is national currency, valuable metal, or certain set of financial assets. Purpose of this type is to reduce the high volatility of prices characteristic of traditional cryptocurrencies and has caused the growing popularity of this kind in the modern market. [18]

Moreover, there are various kinds of digital currencies that are tied to certain platforms or technological projects and used for performing various actions in certain digital environments. All these facts caused great diversity of types of digital currencies and difference in their legal and economic peculiarities due to the purposes of their creation.[19]

One can observe that the diversity of digital currencies has caused difference in legal approaches to them because their legal nature varies according to their kind, issuer of currencies, and degree of official recognition of digital currencies. Thus, studying the legal characterization of these currencies and clarifying the legal approaches to them by the various legislation is needed. It will be discussed in the next section. [20]

Branch Two

The Legal Characterization of Digital Currencies and the Position of Legislation Toward Them

Clarification of the legal nature of digital currencies is considered one of the most controversial problems in modern legal science because of the relatively recent emergence of these currencies and their distinction from traditional forms of money, recognized in different legal systems. The emergence of digital currencies, especially cryptocurrencies, has created many problems associated with their legal nature and the possibility of their regulation according to the legal principles applied to money, property, or financial assets. It has led to the emergence of various jurisprudential approaches to these currencies. [21]

Identification of the legal nature of digital currencies is associated with determination of their legal description in accordance with existing legal rules and the clarification of the fact whether these currencies should be regarded as legal tender, movable property, or special digital assets requiring specific legal regulation. This question is very important because of legal consequences following from it in relation to circulation, ownership, liability, taxation, and financial control. [22]

One jurisprudential approach to digital currencies is to treat them as a new type of money, based on their functions and in light of the fact that these currencies sometimes can be used as media of exchange, stores of value, and financial obligation payment instruments. Representatives of this approach argue that due to the economic and technological progress, the concept of money should be extended from the traditional forms to digital instruments performing the same monetary functions. [23]

On the contrary, another jurisprudential approach opposes the classification of digital currencies as money from the strict legal point of view, arguing that these currencies are not issued by official monetary authorities and do not have the status of general legal discharge, besides the lack of any governmental guarantee of their value. These facts make them different from the traditional form of money, issued by the state and controlled by it. Therefore, this approach regards digital currencies as digital assets or tradable virtual values. [24]

Jurists also tend to classify digital currencies as movable property of an intangible nature, since these currencies have economic value and are possessable, disposable and transferable in ownership between individuals. Therefore, they are regulated by general legal rules concerning property and financial rights. The basis of this approach consists in the fact that the key criterion of property is economic value and its legal handling, which is fulfilled in many digital currencies being traded in the world. [25]

At the legislative level, the positions of states regarding digital currencies have been diverse. Some states have chosen the way of recognition and regulation of circulation of digital currencies through issuance of special legislation defining their terms of usage and mechanisms of their control in order to get profit from financial technologies and limit their possible risks. [26]

On the contrary, other states have chosen the strict policy regarding digital currencies, forbidding or strictly limiting their circulation due to such reasons as money laundering, financing terrorism, tax evasion, high price volatility of these currencies and risks threatening the monetary and financial stability of the state. [27]

A third group of states has chosen the intermediate policy that does not involve recognition of digital currencies as legal tender but allows their circulation in accordance with certain regulatory measures, in the framework of which organizations operating in this area should be licensed, controlled and obliged to disclose their finances. This approach has become quite widespread recently because of balancing the needs of financial innovations and protection of the economic system. [28]

As follows from the above, the lack of a single legislative position regarding digital currencies demonstrates the complicated legal nature of these currencies and confirms the necessity of development of the legal and regulatory framework able to accommodate the fast technological advances in financial technologies in a way ensuring a balance between the needs of economic innovations and the needs of financial security and stability. [29]

Section Two

Aspects of Comparison Between Electronic Money and Digital Currencies in Terms of Legal Nature

The evolution of technology in the domain of finance has resulted in the creation of various digital tools which are very similar in terms of economic and monetary tasks. Among such digital tools, the most popular ones include e-money and cryptocurrencies. While there is no doubt that there are some significant differences between the two financial instruments, there are also many aspects of resemblance between them in terms of their functions or in terms of some legal and economic features of the instruments.

Thus, comparing them helps to understand their legal nature better and to determine the range of possible rules for regulating them.

In this regard, this chapter will be divided into two subsections. The first one will deal with the similarities and differences between e-money and cryptocurrencies, whereas the second subsection will consider the legal consequences of dealing with them.

Subsection One

Similarities and Differences Between Electronic Money and Digital Currencies

While the nature of the entity behind the issuance of electronic money and digital currencies and their regulations are different, there are many common features and roles played by these two financial products that make them the leading tools of the digital age. On the other hand, there are significant differences between the two that influence the legal status and the legislation in regards to each of them. Therefore, in order to understand this issue properly, the similar points will be considered at first followed by the difference points.

For this purpose, the current subsection will consist of two sections. The first one is aimed at the presentation of the similarity points, while the second section covers the differences points.

Branch One

Similarities in Functions and Legal Characteristics

Similarities between electronic money and digital currency stem from the set of functions and features of both types, which can be attributed to the fact that both of them constitute financial instruments, which are circulated electronically in a digital form. This is one of the reasons why many jurists have raised discussions whether the two instruments can be subjected to similar legislative regulations despite their differences. [30]

Thus, first, one of the main similarities of electronic money and digital currencies is the fact that both are used for financial exchange purposes since they can be utilized for paying for purchases or other financial operations. Consequently, the function mentioned above is among the reasons why electronic money and digital currencies are extensively applied in e-commerce operations. [31]

Furthermore, both types have in common the fact that they rely on the application of digital and electronic media during their issuance and circulation as well as transfer procedures since all operations with such financial instruments are carried out via the Internet and information network. This differentiates such instruments from traditional money requiring tangible material existence. [32]

Moreover, one of the similarities of electronic money and digital currencies is the efficiency of operations they provide since using such financial instruments allows performing payment and transfer operations within short periods in comparison with traditional money, thus, facilitating business processes and reducing financial transaction costs. [33]

In addition, the two types have in common the possibility of usage across national borders because transactions performed via these instruments are not restricted only by the territory of one state, but are used in various international transactions. This has facilitated the process of developing global digital economy and transferring funds between states. [34]

In addition, from a legal point of view, there are several issues similar for both types of financial instruments, such as the necessity of regulating personal data protection, information security, fighting against cybercrimes, preventing money laundering, and terrorist financing. This has caused development of special frameworks in this regard by states and international organizations. [35]

In addition, another similarity of the two types of financial instruments under consideration is the reliance on trust in terms of dealing. Though the nature of such trust differs for both types as trust in electronic money is associated with the issuer of such instrument, while in the case of digital currency, it is connected with the technologies of its verification. Nevertheless, the element of trust is important for both types. [36]

Consequently, as it can be seen from the discussion above, electronic money and digital currencies have much in common in terms of functions and features associated with the usage of digital technology. However, this does not mean that there are no legal differences between them and they will be considered in the next section. [37]

Branch Two

Differences in Issuance, Oversight, and Legal Guarantees

Despite the existence of numerous similarities between the two types of payment means in terms of the use of digital technology and the performance of similar functions, the legal differences between them become even more conspicuous and influential in defining the legal nature and legislation towards them. These differences mostly concern the issuing entity, the degree of legal control of each of the two types and the guarantees provided to users of these means. [38]

The first distinction is that related to the issuance of money. Electronic money is normally issued by financial institutions and banks having the proper license from the relevant authorities, and its value depends on the official money used in the country since it is issued in exchange of the deposit of a monetary amount. Thus, its legality is determined by the official financial system. [39]

On the other hand, digital money such as crypto currencies is normally created and used independently of the traditional financial system. It is not issued by the state and a central bank, but through digital systems and networks based on encryption technology. The lack of an issuing body among digital currencies brings up the question of liability, legal control and protection of those using it. [40]

Moreover, the two forms of money differ regarding the legal control of them. In this case, electronic money is under the legal control of central banks and competent authorities. Since its issuing bodies must be licensed and comply with the legal requirements concerning the protection of clients, financial disclosure, money laundering and the like, these organizations are subject to supervision and monitoring for the sake of the integrity of the financial system and its protection. [41]

In turn, the legal control of digital currencies faces some difficulties caused by their international nature and the fact that many of them rely on the decentralization of the system that is not controlled by any entity. As a result, it is difficult for regulatory bodies to trace the transactions carried out with the help of this type of money and monitor them in the traditional way. In this way, it becomes easy for criminals to exploit digital money for unlawful purposes if there are no regulatory frameworks to deal with them. [42]

Moreover, electronic money is characterized by a fairly high level of legal protection due to the control and monitoring of it, as well as the possibility of seeking legal recourse from the issuer of electronic money for the sake of one's rights if there are any infringements. In addition, the value of electronic money is stable since it is connected to the official money of the state. [43]

As for digital money, the level of legal guarantees concerning it is determined by national legislation and type of money used. In many cases, its users have fewer legal guarantees than users of electronic money. In addition, frequent fluctuations in its market value may cause the loss of significant amounts of money for the investor. [44]

Finally, electronic money can normally be redeemed at its nominal value from the issuer of it, while crypto currencies do not have such a legal provision guaranteeing the compensation of their owners for the decline of their price or loss due to technical problems. [45]

Thus, from the above information it is evident that the differences between electronic money and digital currencies are not confined to technical aspects only, but also concern the legal and regulatory aspects of their issuance, legal control and guarantees given to users. This explains the difference in legislative positions to each of the two types and influences the definition of the specific legal nature of each type of money. [46]

Subsection Two

The Legal Effects Arising from Dealing in Electronic Money and Digital Currencies

The extensive application of electronic money and digital currencies has given rise to several legal implications that concern different sides of financial and economic transactions. With the growing application of these digital tools in payment, transfer, and investment processes, it became necessary to define the legal obligations imposed in case of their use and to identify the legal protections ensured to those who operate with them. It becomes especially important in view of legal and technological risks posed by the digital sphere that might impact the rights of the parties involved.

Thus, this subchapter will be covered in two parts. In the first part, the legal liability that results from the circulation of electronic money and digital currencies will be examined, whereas the second one will discuss the legal protection of users and the legislation related to it.

Branch One

Legal Liability Arising from Their Circulation

Use of electronic money and digital currencies in financial transactions creates an array of legal responsibilities, violation of which leads to establishment of legal responsibility towards the parties involved. Such responsibility is dependent on the nature of the legal relationship under dispute. Thus, it might be civil responsibility as a result of breaching contractual or tort obligations; criminal responsibility as a result of committing the acts prohibited by law; or regulatory responsibility created by the competent supervisory authorities towards financial institutions operating in this field. [47]

Civil responsibility represents one of the most common legal responsibilities connected with the use of electronic money and digital currencies. This type of responsibility appears in case of violation of contractual or statutory obligations by one of the parties involved in the legal relationship causing harm to another party. Thus, an entity issuing electronic money can be made responsible if it does not comply with its obligations concerning the protection of customers' funds or the provision of technical means for carrying out safe transactions or if it commits errors causing losses to its customers. [48]

Besides, the use of electronic money and digital currencies also causes civil responsibility in case of technical malfunctions and errors leading to incorrect fund transfers, loss of data or disturbance of financial transactions, provided that the components of civil liability are available: fault, damage, and causal connection. It implies the obligation of the party at fault to compensate for the damage inflicted upon another party, as follows from the general principles of civil responsibility. [49]

Regarding digital currencies, civil responsibility may appear in a number of cases, including violation of the obligations by digital trading platforms or absence of adequate protective measures aimed at protecting customers' funds from hacking or theft of digital currencies. Besides, such responsibility may also appear in case of misleading investors or violation of legal provisions of dealing in these currencies. [50]

As to criminal responsibility, it may appear in case of use of electronic money and digital currencies in committing financial or cybercrimes, such as electronic fraud, money laundering, financing of terrorism, digital extortion, and unlawful intrusion into electronic systems. Criminal offenses become especially serious due to the technical character of digital transactions and problems caused by this aspect in detecting offenders in some cases. [51]

Thus, modern legislation tends to prohibit illegal acts connected with the use of digital financial instruments and impose criminal punishment on the offenders of either individual or institutional character with the goal of protection of the financial system and integrity of electronic transactions. In addition, legislation imposes upon financial institutions and digital service providers the obligation of taking preventive measures limiting exploitation of these instruments in committing unlawful acts. [52]

Next to civil and criminal liability, there is regulatory liability imposed on the licensed issuers of electronic money and digital service providers by the supervisory authorities in respect of the compliance with the legal and regulatory requirements regarding licensing, financial disclosures, customer's data protection, and combating money laundering and terrorist financing. Violation of these responsibilities may lead to administrative or financial sanctions reaching up to withdrawal of the license or suspension of business activity. [53]

Furthermore, the continuous development in the area of financial technologies imposes on financial institutions operating in this field the constant obligation of improving their technical systems and reinforcing cybersecurity procedures in order to minimize risks connected with the breach and cyberattacks that might harm users or the financial system as a whole. Such a breach represents the basis of legal responsibility in case it causes harm to others. [54]

To conclude, it should be noted that the circulation of electronic money and digital currencies involves creation of a wide range of legal liabilities, including civil, criminal and regulatory responsibilities. The significance of this fact indicates the need for a unified legal framework providing the balance between stimulating innovations in finance and guaranteeing the safety of the rights of users and financial system as a whole. [55]

Branch Two

Legal Protection for Users and Legislative Challenges

The steady growth in the usage of electronic money and digital currencies has led to the need to give effective legal protection to those using them, given the risks in the legal and technical aspects of the digital environment that may pose threats to the rights and funds of such users. Legal protection is one of the main factors that contribute to the creation of trust in the digital finance systems and motivate people and organizations to take advantage of their benefits. [56] As a result, numerous legislations have passed regulations designed to ensure users' protection and reliability of electronic financial transactions. [57]

Legal protection of users of electronic money includes a range of assurances that legislation imposes on issuing entities and financial services providers. First of all, it is the requirement to inform about the terms of use of electronic services and clarify the rights and obligations that arise for all sides involved in the process. The mentioned entities should also provide a safe technical system that will allow protecting customers' funds and preventing any unlawful access to their data or electronic accounts. [58]

Protection of users' personal and financial data is another aspect of legal protection of users of electronic money. Modern legislation gives strict rules for financial organizations about keeping users' information confidential and disclosing it only within the bounds allowed by law. It is caused by an increasing risk of cyber attacks and stealing of users' financial data through digital networks. [59]

Another aspect of legal protection is the right of users to oppose any unlawful or unapproved transactions and to claim compensation for any damage resulting from technical faults or violation of legal obligations on the part of the service providers. Such rights help to create a certain balance between financial institutions and users and enhance trust in digital transactions. [60]

As far as digital currencies are concerned, the legal protection of those using them depends on the legislative approach of each country. In case the country establishes specific rules for the regulation of digital currencies, the users of digital currencies have more legal protection because of licensing, supervision, and disclosure of trading platforms and organizations working in this sphere. In case the country does not provide clear regulation for such currencies, the users have less chances to be protected by law. [61]

However, despite legislative efforts, there are still many problems that have to be solved by legislators in the area of regulation of electronic money and digital currencies. First of all, it is the problem of the quick development of financial technologies in comparison with the development of legislation that leads to the appearance of gaps between practice and law. [62]

Cross-border character of digital transactions becomes one of the main legislative problems as well as many transactions take place between users located in different countries, and the issues concerning the determination of the relevant law and competent court arise. [63]

Moreover, the problem of maintaining a balance between promotion of innovations and financial and economic stability remains actual as well since too rigid regulations of digital currencies may impede technological development, while lack of proper regulation can leave the door open for unlawful activities and risks of users. [64]

Also, there are certain difficulties connected with prevention of money laundering, financing of terrorism, and cyber crimes. The solution of these problems presupposes the creation of special supervisory and legislative measures suitable for the technical character of digital transactions, but respecting people's rights and freedom at the same time. [65]

Thus, from the above-discussed, it follows that the legal protection of users of electronic money and digital currencies has become an essential requirement of the present-day technological and economic development, and the success of legislation in this field depends on its ability to overcome the challenges.

RESEARCH METHOD

This research employed an analytical legal method to examine the concepts, characteristics, and legal nature of electronic money and digital currencies. The analytical method was used to study legal texts, jurisprudential opinions, and regulatory provisions related to electronic money, digital currencies, cryptocurrencies, and financial technology. Through this approach, the research sought to identify how these instruments are understood within legal doctrine and how their use creates specific legal consequences in modern financial transactions.

In addition, this research applied a comparative method to distinguish electronic money from digital currencies in terms of issuance, supervision, legal recognition, and user protection. The comparison was conducted by examining the legal characteristics of electronic money as a monetary value issued by licensed financial institutions and regulated by monetary authorities, and digital currencies as digital assets that may be centralized, decentralized, or linked to specific financial or technological platforms. This comparison makes it possible to clarify the similarities and differences between both instruments from a legal perspective.

The data used in this research consisted of legal literature, legislation, jurisprudential views, and regulatory approaches concerning electronic money and digital currencies. The collected materials were analyzed by classifying them according to the main issues of the study, namely legal nature, monetary function, issuance mechanism, regulatory control, legal liability, and protection of users. The results of the analysis were then used to formulate findings and recommendations regarding the need for a special legal framework that can regulate electronic money and digital currencies while balancing innovation, financial security, and user protection.

RESULTS AND DISCUSSION

The results of this research show that electronic money and digital currencies are two different forms of digital financial instruments, although both use electronic media in their circulation and transactions. Electronic money is closely connected with conventional fiat currency because it is issued in exchange for an equivalent monetary value and is generally issued by licensed financial or banking institutions. Therefore, its legal status is more clearly recognized because it remains within the official monetary and banking system and is subject to the supervision of monetary authorities.

In contrast, digital currencies, especially cryptocurrencies, have a more complex legal nature because many of them are issued and circulated independently of the traditional monetary system. Digital currencies may take several forms, including centralized digital currencies, decentralized cryptocurrencies, stablecoins, and platform-based digital assets. This diversity causes differences in their legal characterization, because some may be treated as means of exchange, while others are considered digital assets, virtual property, or investment instruments depending on the legal approach adopted by each jurisdiction.

The comparison also shows that electronic money and digital currencies share several similarities in their economic functions. Both may be used as a medium of exchange, a means of financial transfer, and in some cases a store of value. They also rely on digital technology to perform transactions quickly and efficiently, especially in electronic commerce and cross-border transactions. However, these functional similarities do not automatically mean that they have the same legal status, because their legal nature depends on the issuing authority, regulatory control, and the protection provided to users.

The main differences between electronic money and digital currencies are found in issuance, oversight, and legal guarantees. Electronic money is issued by licensed institutions and is usually redeemable at nominal value, which gives users stronger legal protection. Digital currencies, especially decentralized cryptocurrencies, are not issued by a central authority and are often not guaranteed by the state or financial institutions. As a result, users may face greater risks, including price volatility, loss of assets, hacking, and limited legal remedies when disputes or technical problems occur.

The research further shows that dealing with electronic money and digital currencies may create several forms of legal liability. Civil liability may arise when one party violates contractual or legal obligations and causes financial loss to another party. Criminal liability may occur when these instruments are used for fraud, money laundering, terrorist financing, cybercrime, or unlawful access to electronic systems. Regulatory liability may also be imposed on financial institutions, issuers, or digital service providers that fail to comply with licensing, disclosure, cybersecurity, anti-money laundering, and customer protection obligations.

Another important result concerns the legal protection of users. Users of electronic money generally receive stronger protection because the issuing institutions are subject to financial regulation and supervision. This protection may include transparency of service terms, confidentiality of personal and financial data, security of electronic systems, and the right to object to unauthorized transactions. Meanwhile, protection for users of digital currencies depends heavily on the legal position of each country. In jurisdictions where digital currencies are not clearly regulated, users may have limited access to compensation, dispute settlement, or legal remedies.

Based on these findings, the discussion confirms that the development of electronic money and digital currencies requires a specific and adaptive legal framework. Traditional legal rules are not always sufficient to address the technological, financial, and cross-border nature of digital financial instruments. Therefore, legislation should regulate issuance, licensing, supervision, cybersecurity, personal data protection, liability, and user protection. At the same time, legal regulation must maintain a balance between supporting financial innovation and preventing risks such as fraud, money laundering, terrorist financing, financial instability, and loss of public trust in digital financial systems.

CONCLUSION

Fundamental Finding: This research dealt with the topic of electronic money and digital money by defining their meaning and nature, recognizing their similarity and difference, and analyzing the legal consequences of dealing with them. There is evidence that electronic money and digital currencies constitute two different types of digital financial instruments, even though they use similar electronic mediums to circulate. It became evident that electronic money is related to conventional money and issued by financial or banking institutions legally authorized to issue such instruments, while most digital currencies, especially those classified as cryptocurrencies, are issued independent of the conventional monetary system. The study proved that there are similarities between electronic money and digital currencies in executing some financial functions such as being a medium of exchange, means of financial transfer, and sometimes store of value. The study proved that the legal liability incurred by conducting business with electronic money and digital currencies is either civil, criminal, or regulatory liability based on the type of violation committed. **Implication:** Necessity of developing special national legislation that properly regulates transactions with electronic money and digital currencies. Improving the supervision of monetary and financial authorities in a way that provides protection to the users and guarantees financial stability. Formulating legal provisions concerning personal data protection and cybersecurity to address the risks inherent in digital transactions. Regulating digital currency transactions via licensing and legal oversight in order to reduce fraud, money laundering, and financing terrorism. Supporting legal and financial awareness of individuals about the benefits and dangers of electronic money and digital currencies. **Limitation:** The study showed that electronic money is better regulated and legislated than digital currencies, which continue to be subjected to conflicting international laws. There are more problems related to regulation and law enforcement in case of digital currencies because of their decentralized nature and difficulty of regulating them according to traditional practices. **Future Research:** Increasing international cooperation between states and financial authorities to face the legal challenges raised by the international dimension of digital currencies. Following technological developments by reviewing and updating the legislation periodically in accordance with the developments in the field of financial technology.

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***Rafad Ali Hussein (Corresponding Author)**
University of Al-Qadisiyah – University Presidency, Iraq
Email: rfadalihussien@gmail.com