

# Legal regulation of cryptocurrency and NFTs

Latvia





**PILnet** is a global non-governmental organization that creates opportunities for social change by unlocking law’s full potential. With programs in Europe & Eurasia, Asia, and at the global level, PILnet aims to reclaim and reimagine the role of law so that it works for the benefit of all. PILnet builds networks and collaborations of public interest and private lawyers who understand how law works when it serves the interests of the privileged and then it uses that knowledge to strengthen civil society and the communities they serve. PILnet not only obtains high-quality, free legal assistance for civil society organizations when they urgently need it but also helps organizations to capitalize on the full range of specialized legal expertise that can be provided by corporate lawyers, including against ongoing, or even yet-to-be-determined, challenges.

## Introduction

There is an increasing number of charities across the world that have started accepting cryptocurrency as donations, including [UNICEF](#) and the [Salvation Army](#). New platforms like [The Giving Block](#) and [DoinGud](#) are helping nonprofits to raise funds with cryptocurrency and non-fungible tokens (“NFTs”).

To help charities better understand the opportunities and risks involved in working in this new context, PILnet with its partners launched a project about legal regulation of cryptocurrency and NFTs in different jurisdictions around the world.

The report below aims to consider:

- (a) The legality of cryptocurrency
- (b) Accepting cryptocurrency
- (c) Accepting NFTs and its proceeds
- (d) Issuing NFTs to raise funds

## Disclaimer

PILnet, and partners participating in this research are not liable towards third parties for the accuracy of the information contained in the research about Cryptocurrency and NFTs. The information contained herein cannot be considered as legal advice. The research was carried out in 2022-2023 and responds to the regulatory framework in effect during this time period.

## Contents

Introduction.....	I
Contents.....	II
1. Is engaging in blockchain technology legal in this jurisdiction?.....	1
2. Is accepting cryptocurrency permitted for charities? If so, what legislation/regulation governs it? 1	
3. Is issuing NFTs to raise funds permitted for charities? If so, what legislation/regulation (if any) governs it?.....	4
4. Are there tax implications for donations of cryptocurrency or NFTs? Are there obligations to pay tax for charities who sell NFTs for fundraising purposes? .....	5
5. What is the best practice or guidance? .....	7

## 1. Is engaging in blockchain technology legal in this jurisdiction?

Yes, engaging in blockchain technology is legal in Latvia. Please note that as of the date of these responses the laws of Latvia do not expressly regulate cryptocurrencies and NFTs, apart from anti-money laundering and counter-terrorism financing (AML/CTF) regulation, and specific regulation concerning the procedure for the seizure of the cryptocurrency within criminal proceedings, therefore all of the answers provided below are subject to high risk of regulatory change, including the implementation of Markets in Crypto-Assets (MiCA) Regulation that regulates cryptocurrencies that is expected in Latvia in the next few years which may significantly impact the responses in this questionnaire. Considering these aspects, before proceeding with any fundraising with cryptocurrencies and/or NFTs in Latvia we advise to engage legal advisors and request the opinions from the relevant state authorities, such as the Latvian State Revenue Service, the Bank of Latvia, and, if applicable, others.



## 2. Is accepting cryptocurrency permitted for charities? If so, what legislation/regulation governs it?

As there is no general, cryptocurrency-specific regulation in Latvia, the legal treatment of cryptocurrencies depends on the particular context in which the cryptocurrency is considered.

From the accounting perspective, cryptocurrencies are considered as a non-financial asset. Therefore, if someone donates any amount of cryptocurrency to a charity it is equated to a donation of property. In this document, the term charity will be understood as both a charity and a non-governmental organization (NGO), because Latvian law does not distinguish between NGOs and charities; both of these may be founded as non-profit organizations, associations or foundations.

Whereas from the financial regulation perspective two aspects of cryptocurrencies are important under Latvian law. First, cryptocurrencies are considered to be a specific type of asset that falls within the scope of the AML/CTF regulation (the term used in the law is the “virtual currency”, please refer below to section “Anti-money laundering/counter-terrorism financing” for more details). Second, in certain circumstances cryptocurrency could be considered as a type of a financial instrument, a type of e-money, or funds associated with payment instruments, which would result in the specific cryptocurrencies and their exchange being subject to regulation applicable to these more traditional types of financial assets. To determine how cryptocurrencies should be treated from the financial regulation perspective, the specific cryptocurrency must be analyzed under the specific circumstances.

There are no legal limitations regarding what types of cryptocurrencies charities can accept, as long as the mentioned AML / CTF laws are complied with. In practice, usually charities themselves limit what type of cryptocurrencies they accept (e.g. Bitcoin, Litecoin, etc.). Also, due to the AML / CTF law, in practice, certain Latvian banks have either entirely or partially restricted engaging in transactions

involving funds that are derived from cryptocurrencies, such as funds received from known crypto services providers.

## **Prescribed processes or restrictions in realizing the value of cryptocurrencies**

There are no limitations regarding the amount of cryptocurrencies that a charity can accept. But there are limitations regarding the amount of donations if the donor wants to get a tax break (for more detailed explanation please see answer to the fourth question).

In Latvia, there is no regulation regarding prescribed processes or restrictions in realising the value of cryptocurrencies. Therefore charities can use and manage whatever crypto wallets or exchange accounts they like. However, the sale of cryptocurrencies and NFTs should not become the main source of income and the main economic activity of the charity. The SRS has expressed the opinion that a charity has the right to perform economic activity only in the form of additional activity. The SRS also considers if the foundation or association mainly carries out an economic activity and this activity has become the main source of income for the association or foundation, i.e. the association or foundation is no longer acting in a true non-profit manner, then it must evaluate whether it should terminate its activity as an association or foundation and register as a merchant (regular, for-profit company) in accordance with the Commercial Law requirements.

There are no laws or regulations that would forbid charities to receive cryptocurrency as a payment for goods or services provided by the charity. As mentioned before, cryptocurrencies are not considered a means of payment, but rather as an object, meaning that it would count as a barter agreement. Same rules apply when charity uses the cryptocurrency directly for its transactions.



According to the Latvian Accounting Law, all transactions of the NGO, as well as every fact or event that causes changes in the state of the NGO's property, must be visibly reflected in the accounting. Information provided by accounting must be true, comparable, timely, relevant, understandable and complete. Accounting must ensure the separation of revenues and expenses by reporting periods.

Taking into account the above and the fact that the digital assets, including cryptocurrencies, do not have the status of a legal means of payment, as well as the fact that the digital assets are not considered financial instruments, but are recognized as a contractual means of payment, the SRS recommends that an NGO that conducts transactions with digital assets list it as a current account in the accounting in the composition of assets as inventory purchased for money (euro).

The digital assets, including cryptocurrencies, listed as part of current assets (inventory), regardless of the payment method at the time of its purchase, is valued in euro in accounting. If the amount of virtual currency changes as a result of an economic transaction, it must be reflected in euros in the accounting records.

## Company's governance documents

A company's governance documents do not need to contain any references or any other approvals to allow a charity to deal with crypto assets as long as its goal is not making profit but rather a charitable purpose. Existing governance documents will be sufficient for the management of digital assets, including cryptocurrencies, as long as these documents comply with all other Latvian law requirements that apply to charities and their other governance documents. Digital assets, including cryptocurrencies, are treated the same as any other assets that the charity may own, therefore it does need to be reported in audits and financial reports.

## Anti-money laundering/counter-terrorism financing

Charities are not directly subject to AML / CTF laws and regulations, therefore the obligations deriving from these regulations (incl. reporting obligations) do not apply to charities. The only exception to this rule would be situations where the charity is conducting activities that make the charity fall under the regulation of the virtual currency service provider, which is an obliged entity under the Latvian AML / CTF law. Latvian AML / CTF law defines the services of virtual currencies very broadly, such as exchange from fiat currencies to virtual currencies or between types of cryptocurrencies, so in any situation where a charity engages in virtual currency transactions directly, not via a professional virtual services provider, we would advise to undertake an analysis if the particular situation qualifies the charity as providing virtual currency services. However, we are not aware of any situations in practice where a charity or an NGO would have encountered such a situation.

Nevertheless, charities should consider the broader impact of AML / CTF regulations, because in practice these AML / CTF regulations apply to their business partners like outsourced accountants, lawyers, banks, etc., that are obliged entities under the Latvian AML / CTF law. The main aspects of AML / CTF regulations to consider are that, first, cryptocurrencies (called virtual currencies in the Latvian AML / CTF law) are subject to a heightened level of scrutiny compared to transactions involving regular financial assets. Second, persons that are obliged entities as per Latvian AML / CTF regulations are required to identify their customers and their beneficial owners and monitor transactions of their customers, as well as perform other obligations. Therefore, theoretically, charities could take anonymous donations, however, we believe this to bear high risk in practice, because the bank or other business partners of the charity who are subject to AML / CTF law and who are providing their services to the charity may need to check the source of these donations to make sure that they are not being used to launder money etc. For example, certain Latvian banks have entirely or partially restricted their clients' transactions that are linked to cryptocurrencies, e.g., incoming transfers of funds from crypto exchanges that have previously been converted from cryptocurrency transactions. Therefore we would strongly advise against accepting anonymous donations in cryptocurrency.

Latvian laws and regulations do not set an obligation for charities to do due diligence of the received donations.

## Accepting NFTs

Similar to cryptocurrencies, NFTs are considered as any other assets (e.g. painting, sculptures, memorabilia) that have their subjective value. Unlike cryptocurrencies, we believe that in most cases NFTs due to their nature – non-fungibility – would not be subject to regulation applicable to traditional financial assets such as financial instruments, e-money or payment instruments. Nevertheless, we cannot exclude that NFTs could be considered as virtual currencies under Latvian AML / CFT regulation because the notion of virtual currency under this regulation is very broad. Namely, it is defined as a digital representation of the value which can be transferred, stored or traded digitally and operate as a means of exchange, but has not been recognised as a legal means of payment, cannot be recognised as a banknote or coin, e-money or funds stored within a payment instrument. We believe that in certain circumstances NFTs could fall within this definition. Accordingly, the considerations described under section “Anti-money laundering/counter-terrorism financing” above may apply, including that we would strongly advise against accepting anonymous NFT donations. Apart from that, in Latvia there are no laws or regulations that would limit charities’ rights to accept NFTs as donations, and there are no limitations regarding what proceeds can be derived from the sale of donated NFTs.

Latvian laws and regulations do not regulate the specific process by which donated NFTs should be converted to fiat money nor is there any time limit for how long a charity may keep donated NFTs.

### 3. Is issuing NFTs to raise funds permitted for charities? If so, what legislation/regulation (if any) governs it?



Latvian laws and regulations do not govern the issuance of NFTs as to who or how someone may issue NFTs, meaning that currently anyone can issue his/her own NFTs and then use these NFTs as he/she likes, for example, to sell, donate or trade them.

Charities can collaborate with third party partners to create NFTs.

Regarding the features that would be included in the NFT, charities can include features (including certain features having real-world benefits) into their NFTs. But it is important to mention that these features cannot be related to any of the regulated services (for example, functions and features that resemble those of financial instruments) that would require the charity to receive a license to do so. In other words, if these functions and features do not have any monetary value, then in most cases it would be allowed. However, when these functions and features include the possibility to receive some kind of monetary value, then most likely it would not be allowed because these would fall under the scope of regulated services that require a license. However, considering that there is no clear regulatory framework or court practice for such cases, each case should be evaluated separately. Therefore the abovementioned can only serve as a guideline on what functions and features NFTs could contain without the need to obtain a license.

## Proceeds that can be derived from NFTs

Charities can accept the proceeds from the initial sale of NFTs, but it gets more complicated regarding charities' rights to receive royalties from subsequent sales of NFTs by third parties. In Latvia, the rights to receive royalties from subsequent sales of NFTs is governed by the principle *Droit de suite*, which states that a right is granted to an artist or his heirs to receive a fee on the resale of his works of art. Regarding this, there are two potential problems, first being that it is unclear if an NFT would be considered an original work of visual art. There is no clear answer to this in Latvian laws and court practice, but, in our opinion, if the NFT is created as a unique (new) work of art, rather than an NFT form of a pre-existing artwork, then that NFT should count as an original work of visual art. However, as mentioned before, this is just our opinion and interpretation of the law. Secondly, the principle *Droit de suite* only applies to natural persons, because the idea is that only a natural person can create a new work of art. Therefore, a charity that is a legal person cannot be the creator of a new work of art, which means that it also cannot directly receive royalties from subsequent sales. One of the potential solutions could be that the natural person who produced the particular NFT enters into a contract with the charity, which would stipulate that the natural person undertakes to donate to the charity the compensation it receives for subsequent sales of NFTs. To our best knowledge, there is no existing practice concerning this problem in Latvia, therefore this is just our interpretation on how this problem could potentially be solved.

## NFT compliance with the AML/CTF laws

Charities do not need to report the sales of NFTs. Regarding the anonymity of the donors, the laws of Latvia do not prohibit the buyers of NFTs to remain anonymous, but, considering the circumstances already outlined above in sections 2, we would not recommend accepting such anonymous donations.

## 4. Are there tax implications for donations of cryptocurrency or NFTs? Are there obligations to pay tax for charities who sell NFTs for fundraising purposes?

The tax authority in Latvia has issued guidance about the taxation of digital currency (incl. cryptocurrency). Available here – <https://www.vid.gov.lv/lv/media/1484/download?attachment>.

The Latvian tax authorities have issued a ruling for income tax and VAT purposes with regards to NFTs. The ruling was issued in coordination with the Latvian Ministry of Finance, Ministry of Culture and Financial and Capital Market Commission.

The contents of the ruling can be summarized as follows:





- NFTs are not primarily created for monetary settlements, therefore it cannot be considered a virtual currency.
- NFTs rather refer to the ownership of the works.
- NFTs do not correspond to any type of the defined capital assets or financial instruments.
- The Ministry of Culture clarified the question if NFTs could be regarded as reproducing an original piece of art. According to the Ministry, NFTs do not qualify as an original work of art because they are created by machines, not humans. Therefore, the income from the sale of an NFT cannot be qualified as income from intellectual property. However, this assessment was done in specific circumstances and in our opinion would not apply to all situations, especially considering that NFTs are not necessarily linked to only digital art that is not created by humans.
- For VAT, an NFT does not qualify as financial service and can therefore not be VAT exempt on those grounds. The reasoning is that the income is not derived from the sale of capital assets but rather from creation and sale of the NFT. This results in the application of the regular VAT rate in Latvia of 21%.

There are no special tax rules or guidance relating to donations of digital assets such as cryptocurrencies in Latvia.

Donation of digital assets to an NGO is not considered a taxable event for the donor in Latvia, because by donating digital assets, the alienation price is zero, and there is no capital gain.

It is important that an NGO is registered as a public benefit organization in Latvia for the taxpayer to receive a tax deduction. Public benefit organizations are associations and foundations, the aim (indicated in the articles of association, constitution or by-laws) of which is public benefit activities, which perform public benefit activities, if such associations, foundations and religious organizations have been granted public benefit organization status and if they use their income for activities of non-commercial nature and directed to ensuring public benefit activities.

According to Corporate Income Tax Law Section 12(1) a taxpayer who has donated to a public benefit organization is entitled to choose one of the following relief possibilities in the reporting year:

- 1) not to include the donated amount in the base taxable with the enterprise income tax in the taxation period but not more than five percent of the profits from the previous reporting year after the calculated taxes;
- 2) not to include the donated amount in the base taxable with the enterprise income tax in the taxation period but not more than two percent of the total gross work remuneration calculated for employees in the previous reporting year from which State social insurance contributions have been made;
- 3) to reduce the corporate income tax calculated on the dividends calculated for the reporting year in the taxation period by 85 percent of the donated amount but not exceeding 30 percent of the calculated amount of corporate income tax on the calculated dividends.

According to Public Benefit Organisation Law Section 9(3), if a donation of a person (donor) for one public benefit organization exceeds 10 minimum monthly salaries or the total amount of donations in a calendar year exceeds 10 minimum monthly salaries, such a person, in order to be entitled to use tax rebates, shall conclude a written agreement with the public benefit organization regarding those

donations which exceed 10 minimum monthly salaries. There is a requirement for the donor to keep certain agreements if the beforementioned conditions are met.

In accordance with Section 2(2)7 of the Corporate Income Tax Law, corporate income tax should not be paid by the associations or foundations if the open or hidden purpose of the establishment thereof is not to make profit or achieve an increase in capital for their members. Thus, when a donation is received by an NGO, it is not taxed.

An NGO has an obligation to create a donation and gift review consisting of: a donation and gift review scheme; donation and gift donors; and details of donations and gifts used. These reports are determined in Annexes No 4, No 5 and No 6 to Cabinet of Ministers regulation No. 439 “Regulations regarding Annual accounts of associations, foundations and trade unions and accounting in a simple entry system”. These reports should show the total monetary value of the donated goods, including digital assets. The donated amount is equal to the value of the donated goods (digital assets) indicated in the acceptance – transfer deed. There is no requirement for the NGO to issue receipts or written recognition to donors.

## 5. What is the best practice or guidance?



There is no special practice or guidance that we have not already mentioned in the answers above.

## Legal regulation of cryptocurrency and NFTs – Latvia

Cover photo credits: Unsplash/Fabio and Unsplash/Art Rachen  
©PILnet and Partnering Law Firms/2023



199 Water Street,  
11th Floor New York, NY  
10038 U.S.A.

 [www.pilnet.org](http://www.pilnet.org)

 [twitter.com/PILnet](https://twitter.com/PILnet)