

Legal regulation of cryptocurrency and NFTs

Lithuania





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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
Disclaimer	I
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 governs it?	4
4. Are there tax implications for donations of cryptocurrency or NFTs?	5
5. What is the best practice or guidance?	8

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

Yes, engaging in blockchain technology is legal in Lithuania. Please note that as of the date of these responses, the laws of Lithuania do not expressly regulate cryptocurrencies and NFTs, apart from anti-money laundering and counter-terrorism financing (AML/CFT) regulation within the Law on Prevention of Money Laundering and Terrorist Financing of the Republic of Lithuania (the Law on AML), therefore, all of the answers provided below are subject to high-risk regulatory change. Please note that the implementation of the Markets in Crypto-Assets (MiCA) Regulation that regulates cryptocurrencies is expected in Lithuania 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 Lithuania, we advise consulting with relevant authorities and legal advisors.



Although cryptocurrencies (incl. NFTs) are deemed unregulated, please note that the Bank of Lithuania has issued several guidelines and positions on tokens, which might be useful with respect to digital assets (see question 5).

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

2.1. What limits and restrictions exist in terms of the types of cryptocurrencies that a charity can accept? (For example: Is there a prohibition or restriction on Bitcoin (BTC), Ethereum (ETH) and/or stablecoins (e.g. USDT)? Is there any restriction on the amount of cryptocurrencies that a charity and NGO can accept?) Are there any prescribed processes or restrictions in realising the value of cryptocurrencies?

In Lithuania, cryptocurrencies are not considered to be means of payment which have legal tender status. Specifically, the Law on AML defines virtual currency as an instrument with a digital value but no legal currency or monetary status, which is not issued or guaranteed by a central bank or other public authority and which is not necessarily attached to a currency, but is accepted by natural or legal persons as a means of exchange and which can be transferred, stored and traded electronically. As there is no general, cryptocurrency-specific regulation in Lithuania, the legal treatment of cryptocurrencies depends on the particular context in which the cryptocurrency is considered.

The tax perspective is provided below in the section on tax implications. From a financial regulation perspective, two aspects of cryptocurrencies are important under Lithuanian law. Firstly, cryptocurrencies are considered to be a specific type of asset, virtual currencies, that fall within the scope of AML/CTF regulation (please refer below to the section “Anti-money laundering/counter-

terrorism financing” for more details). Secondly, in certain circumstances, cryptocurrency could also be considered as a type of financial instrument or 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 (e.g. securities). To determine how cryptocurrencies should be treated from a financial regulation perspective, the specific cryptocurrency must be analysed in the specific circumstances.

There are no legal limitations regarding what types of cryptocurrencies charities can accept, as long as the mentioned AML regulations are complied with. In practice, charities themselves usually limit what type of cryptocurrencies they accept (e.g. Bitcoin, Litecoin etc.). It should be noted that in practice Lithuanian banks or financial institutions tend to suspend or limit transactions related to cryptocurrencies due to AML regulations.

2.2. Do the company’s governance documents allow the charity or NGO to deal with crypto assets?

The company’s governance documents do not need to contain any references or any other approvals to allow the charity to deal with crypto assets as long as its goal is not making a profit but rather a charitable purpose. Existing governance documents will be sufficient for the management of digital assets as long as these documents comply with all other Lithuanian law requirements that apply to charities and their governance documents. Digital assets 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.

2.3. How does the jurisdiction’s anti-money laundering/counter-terrorism financing (AML/CTF) regime (if any) address cryptocurrency donations?

Charities are not directly subject to AML/CTF laws and regulations (i.e. not obliged entities), therefore the obligations deriving from this regulation (incl. reporting obligations) do not apply to charities. Nevertheless, charities should consider the broader impact of AML/CFT regulations, because in practice these AML/CTF laws and regulations apply to their business partners. The main aspects of AML/CTF regulations to consider are that, first, cryptocurrencies that in Lithuanian AML / CTF law are called virtual currencies, are subject to a higher level of scrutiny than transactions involving regular financial assets. Second, persons that are obliged entities as per Lithuanian AML / CTF regulations are required to identify their transaction partners. Theoretically, charities could take anonymous donations, however, we believe this to be impossible or at least highly complicated in practice because the business partners of the charity who are subject to AML / CTF laws and regulations will need to check the source of these donations to make sure that they are not being used to launder money, etc. It should also be noted that the travel rule will be implemented in Lithuania in 2025, thus, service providers acting with virtual currencies will have to exchange information about the parties to crypto transactions.

Lithuanian laws and regulations do not set obligations for charities to do the due diligence on the received donations. However, NGOs are considered as higher risk subjects, thus, the banks or electronic money institutions might request them to provide information (similar scope to due diligence). Thus, we recommend keeping track of received donations.

2.4. Is accepting NFTs permitted for charities and NGOs? If so, what legislation/regulation (if any) governs it?

Similar to cryptocurrencies, NFTs are considered like 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, and payment instruments. Nevertheless, we cannot exclude that NFTs could be considered as virtual currencies under Lithuanian AML/CFT regulation because the notion of virtual currency under this regulation is very broad.



Namely, it is defined as an instrument with a digital value but no legal currency or monetary status, which is not issued or guaranteed by a central bank or other public authority and which is not necessarily attached to a currency, but is accepted by natural or legal persons as a means of exchange and which can be transferred, stored and traded electronically. We believe that in certain circumstances NFTs could fall within this definition. Accordingly, the considerations described under the section “Anti-money laundering/counter-terrorism financing” above may apply. Apart from that, in Lithuania, 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.

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

2.5. Does the receipt of NFTs by a charity or NGO need to be reported in compliance with the AML/CTF regime of this jurisdiction?

See 2.3.

2.6. Are there any prescribed processes and/or restrictions in realising NFTs and converting it to fiat?

There is no limitation regarding the amount of cryptocurrencies that a charity can accept. There might

be limitations or tax implications regarding the amount of donations (for a more detailed explanation please see the answer to question 4).

In Lithuania 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. It is our understanding that this is rather related to what type of clients the exchanges are accepting, i.e. whether the exchange accepts the NGO as the client.

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

As to the accounting principles, these should be consulted separately with relevant accounting firms.



3. Is issuing NFTs to raise funds permitted for charities?

If so, what legislation/regulation (if any) governs it?

3.1. Are there any restrictions on how a charity or NGO can create and sell NFTs or NFT collections?

(a) Are charities and NGOs able to collaborate with third party partners to create NFTs?

Lithuanian laws and regulations do not govern the issuance of NFTs – who or how someone may issue NFTs – meaning that currently anyone who wants and knows how can issue their own NFTs and then use these NFTs as they like, 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 having real-world benefits) with 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 that of financial instruments/investment contracts) that would require the charity to receive a special 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, but 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 special license. However, considering that there is no clear regulatory framework or court practice for such cases, each case should be evaluated separately. Therefore the above-mentioned can serve only as guidelines on what functions and features NFTs could contain without needing a special license.

3.2. What proceeds are charities and NGOs able to accept from issuing and selling their own NFTs?

See question 4.

3.3. Do NFTs sales need to be reported by a charity or NGO in compliance with the AML/CTF regime of your jurisdiction?

Charities do not need to report the sales of NFTs. Regarding the anonymity of the donors, the laws of Lithuania do not prevent the buyers of the sold NFTs from remaining anonymous, but considering the circumstances already outlined above in section 2.3, 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?

4.1. Has the tax authority in your jurisdiction issued any guidance about the taxation of digital assets, including cryptocurrencies and NFTs?

The Lithuanian tax authority has issued general guidance regarding the taxation of digital assets. However, the guidelines are mostly related to the taxation of cryptocurrency in terms of their production, selling or other types of transfer. However, the guidelines are not related to the tax rules that should be applicable in the case of donation of the digital assets.

4.1. (a) Are there special tax rules relating to donations of digital assets?

There are no special tax rules relating to donating digital assets. General tax rules regarding donations should be applicable.



4.2. Is a donation of digital assets to charities or NGOs considered a taxable event for the donor in your jurisdiction?

There are no special provisions regarding the donation of digital assets. Generally, the Law on Charity and Sponsorship establishes that the items that could be provided as charity/sponsorship include any assets, thus, digital assets should also be included in this category. When it turns to taxation of the

donation, please note that according to the provision of the Law on CIT, double the amount of donation/sponsorship can be deducted for tax purposes (i.e. 200% deduction is available) by the donor, but only if a donation/sponsorship was provided to registered donation recipients in the Lithuanian tax authority database (website address: <https://www.vmi.lt/evmi/en/paramos-gaveju-ir-politiniu-partiju-duomenys>) and only up to a limit of 40% of taxable result before deduction of donation/sponsorship and utilisation of tax losses carried forward. In case the donation/sponsorship would not qualify as a donation for CIT purposes, the value of the donation would be treated as non-allowable deductible expenses. Also, the value of the donation should be equal to the acquisition (production) price of the digital assets.

4.2. (a) Are tax deductions available for the donor in respect of donations of digital assets?

Yes, in case the donation/sponsorship qualifies the criteria established in the Law on CIT, double the amount of donation/sponsorship can be deducted for tax purposes (i.e., 200% deduction is available) only up to a limit of 40% of taxable result before deduction of donation/sponsorship and utilisation of tax losses carried forward.

4.2. (b) Is there a requirement for the donor to keep certain records or obtain valuations regarding the donations of any digital assets?

According to the regulation, in order to justify donation for CIT purposes, a donation agreement should be concluded. Based on the value of the donation, the following agreements should be concluded: 1) a written agreement when the donation amount is greater than EUR 1,500. If the donation is provided in the form of goods or services (i.e., digital assets), it will be necessary to calculate the acquisition price and additionally conclude a transfer deed; 2) a notary agreement when the donation amount is greater than EUR 14,500. In case the notary agreement is not concluded, the donor could not use the CIT incentive and deduct double the amount of the donation amount.

4.3. Are there Capital Gains Tax (CGT) or other tax implications arising at the time of donation for the charity or NGO in your jurisdiction?

Based on the general provisions regarding the donations established in the Law on CIT, the value of the received support is determined according to the value specified in the transfer documents of the donor. The taxable base of non-profitable organisations should not include a donation from the state or municipal budgets, European Union, Lithuanian and foreign support funds or other legal and natural persons, provided that such donation is used for charitable purposes and in line with the statutes of the non-profit organisation. It should be noted that if the status of the donation recipient is removed, the unused balance of the received donation has to be attributed to the taxable base of the non-profit organisation for the tax period in which the status of the donation recipient is removed and taxed without deductions (no acquisition value of the digital assets) with 15% CIT.

4.3. (a) Is there a requirement for the charity or NGO to record donations of digital assets received?

According to the provision the Law on Donation and Sponsorship, charities or NGO must keep an account of the donation received (indicate the providers of the received support, if the support was not received anonymously, as well as the value of the support and how this support was used as well as indicate donation recipients, if the funds or property received as support were transferred to another person). Charities or NGO should prepare and submit a report regarding received and provided donations for the tax year until May 15 of the following calendar year.

4.3. (b) Is the charity or NGO required to value the digital assets, including NFTs, at the time of donation? If so, are there any prescribed valuation methods?

There are no specific requirements to value digital assets at the time of donation. Generally, the value of the donation is provided in the transfer deed concluded between donor and recipient. However, if the donor does not indicate the value of digital assets, they are estimated at the fair market value, which is determined according to reliable sources, i.e. data provided in Coinmarketcap database.

4.3. (c) Is there a requirement for the charity or NGO to issue receipts or written recognition to donors? If so, is there an established process that must be adhered to or information which must be disclosed (for example, the date of receipt, the number and type of asset received, and the market value at the time of receipt)?

According to the provision of the Law on donations and sponsorship, donation is voluntary and non-remunerated, except the following duties of the charities and NGOs to the donation provider are allowed: 1) to publish information about the support provider; 2) to submit reports to the support provider about the use of the received support or activities of the support recipient; 3) to use the subject of support in the order specified by the support provider. The obligations of charities and NGOs should be determined in the donation agreement and limited to the above-mentioned information.

4.4. Are there any CGT or other tax implications for the charity or NGO arising in your jurisdiction, if the charity or NGO plans to dispose of or transact with the digital asset subsequently?

There are no specific provisions provided in the Law on CIT. As we mentioned earlier, the donation received by charities or NGOs is not treated as income for CIT purposes. However, in the case where charities or NGOs lose their status of donation recipient, the donation value has to be attributed to the taxable base and taxed with 15% CIT without deducting the acquisition price of the digital asset. Moreover, where a charity or NGO starts commercial activities that do not comply with the purposes for charity and sponsorship as they are established in the Law on Charity and Sponsorship, the received sponsorship could also be taxed. In such cases, moreover, the donor may also lose the possibility to use the tax rebate under which double-deduction is granted and may be required to treat the value of sponsorship as non-deductible expenses.

5. What is the best practice or guidance?



Potentially the below can be useful:


- Guidelines on security token offering:
https://www.lb.lt/uploads/documents/docs/23488_be8ce9606ecb203bf8a9a4bde09ac399.pdf
- Bank of Lithuania position on virtual assets and initial coin offering:
<https://www.lb.lt/en/news/bank-of-lithuania-position-on-virtual-assets-and-initial-coin-offering-reflects-changing-market-realities>

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