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Jurisdictional issues related to assets in e-currency
– Austrian perspective
Virtual Currencies (e.g. Bitcoins) – profile and basic characteristics

Bitcoins:
- webbased electronic payment system
- immediate and irreversible transactions
- direct transactions (peer to peer distributed network)
- automatically generated (mining)
- automatically administered (blockchain)
- cryptographic proof
- no physical entities – only electronic data
- no central institution
- value depends on supply and demand
- cryptographic keys for transactions
- widely anonymous
Virtual Currencies (e.g. Bitcoins) – profile and basic characteristics

Blockchain:
• constant automatic bookkeeping of all transactions
• unchangeable
• anonymus

Trading:
• directly between two private parties
  – by electronic transfer
  – by handing over of the keys physically
• trading platforms (change into traditional currencies)
Virtual Currencies (e.g. Bitcoins) – profile and basic characteristics

III

WALLETS:
• store the keys
• on all kind of electronic devices – online
• offered by various providers
• backups at various places – paper wallet

• loss of keys = loss of Bitcoins
Virtual Currencies (e.g. Bitcoins) – profile and basic characteristics

IV

legal nature of Bitcoins:
• no object or thing
• no right
• data in sense of penal law
• economic value in the sense of penal law
Virtual Currencies (e.g. Bitcoins) – profile and basic characteristics

Bitcoins in summary:
• unregulated digital money
• no central bank or institution
• issue decentralized – automatically
• beyond the control of public authorities
• electronically stored
• acces with keys
• use of encryption methods – anonymity
• no link from assets to identified individual persons
Forfeiture and Jurisdiction in Austria

Forfeiture – scope:
• any assets acquired for or through an offence
• benefits (interests, increase in value) and replacement value
• assets in possession of third persons
• assets of criminal organizations and terrorist groups
• assets acquired in temporal connection with crimes (unless the lawful acquisition is sustained)
Forfeiture and Jurisdiction in Austria

II

Forfeiture – geographic reach:
- Austrian cases: all assets in Austria and abroad
- foreign proceedings: all assets in Austria

Austrian jurisdiction for crimes committed:
- in Austria (action or result in Austria)
- abroad,
  - if national interests are concerned
  - if no extradition is possible
  - due to international obligations
Forfeiture and Jurisdiction in Austria

III

Examples:

• 1./ criminal action in Austria, result abroad – Austrian jurisdiction due to the place of action

• 2./ criminal action abroad, result in Austria – Austrian jurisdiction due to the result

• 3./ purchase on an Austrian website with stolen data from a foreign victim – result abroad, place of criminal (online)action unknown – Austrian jurisdiction denied, nevertheless Austrian jurisdiction for relating assets located in Austria
Forfeiture and Jurisdiction in Austria

IV

direct trans-border access to stored data abroad:

• ongoing discussion
• limits given by the cybercrime-convention
  – open source stored data
  – lawful and voluntary consent of the affected person
  – beyond that: traditional judicial co-operation
Jurisdictional aspects related to Bitcoins

general rules on forfeiture and jurisdiction are applicable

localization
• does not rely on the ubiquity of the blockchain
• follows the location of the keys
  – location of the storing device (PC, mobile phone etc)
  – location of the physical wallet (paper wallet)
  – place of residence of the provider (wallet, cloud)
upcoming issues and fields of action in relation to Bitcoins

• technical level

• finding of new fitting instruments – adjusting of existing instruments
  – criminal procedure (seizure, freezing)
  – international co-operation

• jurisdictional issues in view of international online-investigations
Thank you very much for your kind attention!

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