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## **Digital Currency in the Context of the Czech Financial System: Legal and Regulatory Challenges for a Two-Tier Banking System<sup>1</sup>**

**Abstract:** Central bank digital currencies are a topic that is currently receiving increasing attention. It is a type of money that brings significant innovations to the financial system. Because of the development of cryptoassets and their alternatives, states are also considering the possible introduction of digital currencies into their legal systems. However, the very definition of digital currency by central banks and the variety of different types of currency are challenges to its introduction. In addition, many jurisdictions

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do not currently allow for the introduction of these digital currencies and require some revision. This article aims to assess the Czech legal framework around the possibility of introducing central bank digital currencies in the Czech Republic. The authors also address the legislative challenges associated with implementing central bank digital currencies in general and specifically concerning the Czech Republic. The stated objective is achieved through scholarly methods of primary and secondary data analysis, followed by a comparison of starting points in different countries.

**Keywords:** CBDCs, central bank digital currencies, Czech Republic, monetary law, cryptoassets, two-tier banking systems

## Introduction

Society has witnessed intense technological development over the past few decades. Major milestones include the development of computers, the internet, mobile phones and, more recently, artificial intelligence. All these areas significantly impact the world around us, as we have suddenly transitioned from originally using purely material exchanges to being able to experience a substantial part of our lives in the digital world. One of the significant outcomes of this development is the gradual introduction of cryptoassets into everyday practice, which have become a major part of our lives over the last decade. However, public authorities see cryptoassets as a substantial risk, as they are entirely out of their reach and very difficult to regulate. Indeed, the separation of cryptoassets from public power is also one of their significant benefits.

However, public authorities do not want to be left behind in this area of technological development. Many states are considering introducing digital currencies to complement or completely replace legal money in a given territory. These digital currencies are called central bank digital currencies (CBDCs), and their potential is considerable. Indeed, many countries are intensively exploring the possibility of introducing CBDCs into their legal systems. One such country is the Czech Republic, which, according to an analysis prepared by the Czech National Bank (CNB) (Česká národní banka, 2022, p. 3), is considering the conditions under which a digital currency could be introduced.

This article aims to evaluate the Czech legislation concerning the possibility of the central bank introducing a digital currency in the Czech Republic. Analysis will be used to achieve the stated objective, where the definition of CBDC, its basic categories and its relation to the banking sector will be defined based on general knowledge of CBDCs. Subsequently, the situation in different countries with more or less experience with the introduction of CBDCs will be compared, using a comparative method. Finally, an analysis of the primary legislation in the Czech Republic will be carried out to verify whether the existing legal framework allows for the introduction of a CBDC, and, if we conclude that this legislative framework is insufficient, the challenges for the future introduction of a CBDC into the Czech legal system will be identified and appropriate solutions proposed.

For the comparative analysis of experience with CBDC implementation in different jurisdictions, countries with different degrees of progress in this area are considered, with the selection reflecting geographical and economic diversity, different stages of the development of CBDC projects and the potential relevance of their legislative solutions for the Czech context. Although comparative analysis is not the primary objective of this study, it is an important methodological tool for identifying general trends and approaches that may be useful in assessing the potential for CBDC implementation in the Czech Republic. In a situation where the Czech Republic decides that it wants to issue its own CBDC (e.g. a digital koruna), it is necessary to make legislative changes so that there is a basis in law for issuing such a currency. This is the hypothesis of this article, which will be disproved or confirmed at the conclusion.

## 1. Literature review

There is a consensus in the literature on the basic concept of CBDCs as a digital form of central bank money, where there is a direct relationship between the holder and the central bank or another government-designated entity. This concept is supported by the definitions of leading monetary institutions (Bank for International Settlements, 2020, p. 3; Caccia et al., 2024, p. 6). In categorising CBDCs, the key distinction between the two main models in terms of implementation is between wholesale CBDCs, designed for interbank transactions, and retail CBDCs, available to the general public (Česká národní banka, 2022, p. 5). From a technological perspective, Auer and Böhme (2020) distinguish different implementation approaches, including direct, indirect and hybrid models.

CBDCs represent a significant innovation in 21st-century monetary policy. However, it is essential to note that the motivation for central banks to introduce them is not primarily driven by a need to digitise public administration or tax systems but, as Kohajda and Moravec (2021) suggest, by a need to respond to the dynamic development of cryptoassets, especially stablecoins. These cryptoassets represent a potential threat to the monetary sovereignty of states, motivating central banks to develop their own digital currencies (Bossu et al., 2020, p. 9). In their study for the Bank for International Settlements, Barontini and Holden (2019, p. 12) conclude that although central banks have a clear understanding of the challenges associated with CBDC implementation, most do not yet see sufficiently compelling evidence that the benefits of this innovation outweigh the associated costs.

Research in the field of CBDCs has increased significantly in recent years. Central banks and international organisations are engaged in a thorough analysis of the benefits and risks associated with their introduction (Barontini & Holden, 2019; Bindseil et al., 2024b; Česká národní banka, 2022; Grifoli et al., 2018). Academia is also actively contributing to the debate through a variety of research studies (Bae-

riswyl et al., 2024; Infante et al., 2024; Morales-Resendiz et al., 2021; Náñez Alonso et al., 2020; Nieborak, 2024). Jozipović et al. (2024) point out that when a CBDC is classified as legal tender, the state is responsible for protecting the integrity of transactions. This commitment includes the obligation to establish a clear regulatory framework, legal mechanisms for dispute resolution, creditor protection and effective sanction mechanisms against fraud or theft. This confirms that implementing CBDCs is a technological challenge and requires a comprehensive legal and institutional approach to ensure its functionality and credibility in practice.

The CNB has been reticent about the development of a digital currency. Although it started research on the CBDC in 2016, its analysis from 2022 (Česká národní banka, 2022, p. 19) did not show any significant advantages for the Czech Republic due to the stable use of cash and the low importance of other potential benefits. However, as Vodrážka et al. (2022) state in their analysis of the Bank for International Settlements, despite the current lack of a compelling case for the introduction of a retail CBDC, the activities of other central banks need to be closely monitored given the dynamic developments in this area. It should be noted that the legal issues surrounding the possible introduction of a CBDC in the Czech Republic still need to be resolved.

## 2. Central bank digital currencies

Central bank digital currencies are an entirely new technology with the potential to become the technological successor to current legal tender. It should also be noted, however, that CBDCs represent an innovation in the financial system of legal money that has not occurred for decades. CBDCs are defined as ‘a digital payment instrument, denominated in the national unit of account, that is a direct liability of the central bank’ (Bank for International Settlements, 2020, p. 3). More generally, the Czech National Bank defines them as ‘[d]igital money that represents a direct claim of the holder on the central bank’ (Česká národní banka, 2022, p. 4). Caccia et al. (2024, p. 6) also take a similar view, but expand the terms by stating that it must be issued by a central bank.

By comparing the above definitions, it can be concluded that CBDCs are defined by the following three features of the digital form: they have (1) an existence in the digital (immaterial) world; (2) the function of a payment instrument; and (3) a direct claim by the holder on the central bank (or the liability of the central bank on the holder). The first two features will undoubtedly be fulfilled in any form of CBDC, regardless of the form chosen. A problem arises when an indirect form of CBDC involves an intermediary that issues a CBDC derivative that is subsequently released into circulation by that intermediary, which must hold a reserve of the CBDC issued by the central bank equal to the amount of the derivative. In this scenario, however, it can no longer be established that the CBDC is a direct claim by the holder on the central bank; rather, it is only a claim to the amount of the CBDC derivatives on

a specific intermediary. In general terms, it can no longer be said to be a direct claim, even if compensation mechanisms are set up in case the intermediary issuing the CBDC derivative cannot meet the claim. Therefore, it is a matter for consideration whether the third aspect should correspond to a different feature, e.g. issuance by a central bank.

### **3. Forms of central bank digital currencies**

Distinguishing between the different forms of CBDC is crucial for assessing the legislative and regulatory implications and the impact on the duality of banking systems. Each form requires a different legislative arrangement that will precisely define the rights and obligations of the individual addressees, particularly as each form or combination of forms changes the meaning, purpose, use and substance of the CBDC payment instrument.

Currently, CBDCs can be categorised from different perspectives. Those that have the most significant impact on the legislative framework include in particular the categorisation according to the entity that is allowed to use the CBDC, namely retail and wholesale CBDCs (Lau, 2018, p. 51). A retail CBDC is accessible to the general public for everyday transactions; in contrast, a wholesale CBDC is only for a limited number of entities, usually financial institutions and securities dealers, and is mainly used for large-volume transactions, which may be the settlement of securities claims between financial institutions or the settlement of transactions from a country's monetary policy instruments.

CBDCs can be further categorised according to how a particular CBDC unit is defined, either account-based (Pocher & Veneris, 2021, p. 1), where all CBDC units are held only in the form of balances in individual accounts (a principle essentially identical to regular bank accounts), or token-based (Pocher & Veneris, 2021, p. 2), where individual units within a token-based CBDC are issued with unique identification digits that identify the particular unit. These units are then stored by the CBDC holder in a digital wallet (either in the form of a software application or a hardware wallet) and disposed of using this wallet.

An equally important categorisation is the role of the central bank (or monetary authority) and intermediaries, whereby CBDCs can be categorised into 'direct, indirect, and hybrid' (Auer & Böhme, 2020, p. 89) forms. In the case of the direct form, the entity that issues the CBDC (usually the central bank) is essential in the entire structure; the entity takes care of all the existing processes, implements Know Your Customer and Anti-Money Laundering regulations, communicates directly with the holders and carries out all transactions. In this form, the CBDC holder has a direct claim against the issuing entity. However, we believe that most central banks in developed countries do not have the staff substrate to be able to provide all these processes.

Our position finds strong empirical support in the current implementation practice of CBDC projects at the global level, where all CBDC initiatives in the entire deployment, pilot or advanced development phase appear to adopt the indirect model, without exception (Auer et al., 2020, p. 39).

In a hybrid form of CBDC, some of the rights and obligations of the issuing entity are delegated to intermediaries, who then provide some of the processes that the issuing entity is unable (or unwilling) to provide. However, the direct claim of the CBDC holder against the issuing entity remains the holder's right. The indirect form of CBDC then aims at entrusting a large number of competencies to intermediaries, who must hold the same number of CBDCs in the issuing entity's reserves, which will be offered to the public in the form of CBDC derivatives (Auer & Böhme, 2020, p. 89). Auer and Böhme (2020, p. 89) mention in this context that the CBDC holder does not have a direct claim on the issuing entity but only on the derivative issuer, i.e. the intermediary, which then has a direct claim on the issuing entity. In this context, it should be noted that although the CBDC holder does not have a direct claim on the issuing entity, it is possible to characterise this claim as at least indirect, as it is likely that in the event of the bankruptcy or insolvency of the intermediary, it is still possible to satisfy the derivative holder from the reserves that are on deposit with the issuing entity. However, how the reserves will be paid out to the holders seems problematic, because the issuing entity cannot provide these CBDC units to the derivative holders, as at that point, it would no longer be an indirect model but a direct model, which is very unlikely to be allowed by legislation. However, transferring the reserves to another intermediary or compensating through a different payment method remains an option.

CBDCs can be classified into those that use a decentralised registry technology (such as distributed ledger technology (DLT)) and those that do not (Bossu, 2020, p. 10). While DLT-based CBDCs can provide benefits such as increased transparency, resilience to outages and the ability to better connect systems, implementing this technology also presents some challenges, including the complexity of managing scalability, transaction speed and power consumption (Sasongko & Yazid, 2020). Using centralised systems, an alternative approach offers more straightforward implementation and control over monetary policy but may be less resilient to attacks and failures. Hybrid models combining elements of DLT and centralised systems are currently being explored as a solution to balance efficiency and security. For example, proposals based on two-layer systems (wholesale and retail CBDCs) show the potential for linking DLT at the interbank transaction level with traditional systems for retail use (Guo et al., 2024).

Territorial usage possibilities refer to whether the CBDC can only be used within the national territory or whether it has some cross-border overlap. These two forms can be characterised as national on the one hand and cross-border on the other.

#### **4. A two-tier banking system: Coexistence, substitution or cooperation?**

CBDCs are a type of public money that brings fundamental innovation to the financial system. As noted above, each form of CBDC brings different technological and legislative challenges that affect the financial system and banking. Therefore the question remains whether it is possible to create a symbiotic (mutually beneficial) two-tier banking system, which, in the context of this paper, distinguishes between a private banking system, represented by commercial banks that offer their banking products (notably bank accounts and transfers between these accounts, where all these processes are recorded within the bank's internal system, or shared in the case of international payments), and a public banking system, which if adopted would be an account-based CBDC system that would work with legal tender and which would be more or less the responsibility of the particular central bank. Although a CBDC is currently seen primarily as an option to offer public funds to a large group of actors in a given economy and to preserve the monetary sovereignty of states, many legislators believe that it could also have a negative effect on the financial system in general (Ahnert et al., 2023, p. 2).

In assessing the impact on private banking when a state CBDC is issued, it is necessary first to answer the question of the purpose of issuing a CBDC. The focus needs to be on whether it is intended to replace the existing private banking system, whether it is a supplementary payment instrument to existing payment accounts and e-money, or whether some private–public cooperation in the CBDC area is envisaged. If the purpose of the CBDC is to replace the existing banking system entirely, it is clear that a two-tier banking system cannot be sustained at this point, and private commercial banking will be entirely replaced by state CBDC through legislation. On the other hand, it can be said that when the purpose of the CBDC is to coexist with the current private banking system, the primary purpose will only be to create an alternative payment instrument that will be able to attract a group of subjects who are not comfortable with the current private system or who do not trust it. Moreover, this system may coexist without some functional connection, or there may be bridges through which the CBDC can be exchanged for bank account deposits and vice versa. It is therefore a kind of competition. This is also how the purpose of the digital euro is defined, with the main reasons for its introduction being to make the financial system more efficient and reduce costs for financial service providers, to increase competition with private forms of money, to provide easier access to the currency by foreign investors, and to reduce the environmental impact of the financial system (European Central Bank, 2020, pp. 10–15).

Cooperation can be described almost identically to coexistence, with one significant difference: in the case of cooperation, the private commercial bank is part of the CBDC infrastructure and participates in their processes, i.e. in the indirect and hybrid forms. In these cases, there is still the possibility of a functioning private banking system participating in the CBDC. It is also possible to think of a cooperative arrangement



where the private banking system no longer performs the services currently associated with it and becomes merely a service provider where the central bank does not have the staff or facilities. However, we do not consider this option very realistic, as it would mean that commercial banks would lose a substantial part of their business and would have to sell off a large part of their assets and eliminate much of their staff.

We believe that it is also essential to consider that were a state to issue its own CBDC and wanted to maintain a two-tier banking system, it would be forced to assess whether an unrestricted CBDC could adversely affect the financial system. Given the institution of legal money, which a CBDC is and which possesses greater credibility than private money, it could threaten the liquidity of private banks, not only in crises (Ahnert et al., 2024, p. 4) but also in the case of the issuance of an unrestricted CBDC at the earliest stage, as trust in the state and the central bank may force institutions and entities to withdraw their bank deposits and put them into the state's digital money. Similar concerns exist for banking institutions regarding adoption of the digital euro (Bindseil et al., 2024a). However, the European Central Bank completely dismisses such concerns and sees the solution as being a limit on the amount of digital euros that an entity will be allowed to hold and the number of digital euros in circulation (Bindseil et al., 2024a).

## **5. Legislative challenges related to the implementation of central bank digital currencies**

The legislative challenges that may arise in implementing CBDCs can be classified into two basic groups, which are, however, linked by a fundamental criterion, namely that of time. It is necessary to distinguish between challenges that occur before the development of a specific CBDC project and those that occur after the incorporation of a CBDC into the legal order. Regarding the former, this has to be considered in the research about and the actual selection of the specific form of CBDC that a particular state could use. It is necessary at this stage to concentrate the research, as a rule, on two parts, namely what form of CBDC is appropriate for a given state in terms of existing legal provisions, both national and international obligations, which would be either difficult or impossible to change or abolish. This is likely the case in legislation governing anti-money laundering and counterterrorism financing measures. It is therefore necessary at this stage to define how to design the CBDC project and, on the basis of a comprehensive legal and technological search, to choose a legal form that does not conflict with any regulations to which the country is bound. The second part is what are the legislative changes that will need to be made in the case of an individual CBDC after its completion and the possibility of incorporation into the legal system. This needs to be assessed in the case of a specific project and a comprehensive preparation for a given change in the legislative environment



needs to be undertaken, as otherwise it may happen that the CBDC project is ready, but the legislation that would allow it to be used is not.

If a particular state concludes that the benefits of issuing a CBDC outweigh the pitfalls and chooses an appropriate form, then it is necessary to determine whether the legislative challenges that precede the project launch also threaten that particular state. The competence of the central bank or monetary authority to issue CBDCs seems to be a very problematic legislative challenge. Academic publications document the lack of competence of most central banks or monetary authorities either to issue certain types of currency or to open and maintain accounts for various entities and persons (Bossu et al., 2020, p. 16). Bossu et al.'s research shows that '[a]mong the 171 central banks of the IMF membership, 61% of central bank laws limit the authority of issuance of currency to banknotes and coins' (2020, p. 21). However, they also add that for a further 16% of these banks, it is not directly apparent from the law whether or not they can issue anything other than coins and banknotes (Bossu et al., 2020, p. 21). This implies that 77% of central banks cannot or do not know whether they can issue anything other than coins and banknotes and thus are not authorised to issue any form of CBDC, whether token – or account-based, precisely because the competence of a central bank to issue a particular CBDC (whether the digital dollar, euro, zloty or koruna) is a prerequisite for it to come into existence. Although a token-based CBDC is sufficient to enshrine this basic competence, the situation is somewhat more complex in the case of account-based CBDCs.

Account-based CBDCs are, as mentioned above, almost identical in operation to bank accounts. Therefore it is necessary that the central bank, in addition to having the competence to issue a particular CBDC, can also open accounts for all entities of a given country or for entities that are exhaustively defined if this will suit the chosen form of CBDC. In this context, it is essential to distinguish between CBDCs intended for retail or wholesale entities. The statistics for retail account-based CBDCs are inarguable, with 85% of the 171 central banks not opening accounts for entities that are not exhaustively defined by law (Bossu et al., 2020, p. 23). Moreover, for another 9%, it is unclear whether they have the authority to open accounts for entities other than those specified by law (Bossu et al., 2020, p. 23). Thus it is possible to assume a set of central banks will have the authority to issue account-based CBDCs (assuming, of course, that they have the general authority to issue CBDCs, as discussed above). Still, the vast majority will not have the authority to hold entity accounts, and thus it is clear that retail account-based CBDCs must be legislated for before they can be issued.

It should also be mentioned that another monetary issue that may arise is whether CBDCs become legal tender at the moment of issuance or whether a legislative change is required. The answer to this question cannot be presented without further discussion. The situation must be examined from the perspective of the particular state, as the question of legal money will vary from jurisdiction to jurisdiction (Bank for International Settlements, 2024, p. 5), and this area must be examined

using legal methodology, which in theory can bridge the lack of exact language and grammar by purposive interpretation or other methods of legal methodology. It must be said, however, that while it is not necessary to grant a CBDC the status of lawful money, it is clear beyond doubt that without that status, the particular CBDC will not be given credence by the public, nor will the obligation among merchants and/or the public to accept it be very enforceable. On the other hand, before a given CBDC is made legal tender, all aspects associated with it (security, legal framework, intermediaries, etc.) must be adequately and comprehensively analysed and accounted for; otherwise, the issuing entity risks causing overwhelming damage to the economy of the country in question (Jozipović et al., 2024, p. 79).

A problematic aspect can also be seen in the potential threat to user privacy at a fundamental level. In the current world, user data (whether personal or business) can be seen as a kind of commodity that has a fundamental economic value (Murphy et al., 2024, p. 1). This economic significance is overlooked in the CBDC system compared to other types of payment instruments (in the case of the direct CBDC model). Still, even though this fundamental problem of private payment instruments is overlooked, there may be a significant issue in the possibility of the CBDC being seen as a tool of state surveillance (Murphy et al., 2024, p. 2). However, this is only one of the pitfalls that may arise in this regard; as Schueffel argues, others may be the restriction and blocking of specific users or the restriction of the purchase of certain goods or, conversely, the promotion of other goods by the state or an adverse interest (Schueffel, 2023, pp. 52–53). However, a form of CBDC based on DLT and in an indirect or hybrid form can be viewed differently; in this respect, the threat to users by private actors is no less than that of conventional payment instruments. The solution to this problem, though, is technologically and legally complex, as also noted by Hrabčák and Štrkolec (2024, p. 41). Both technological and legal perspectives must be applied at the outset to prepare the technological infrastructure. The key is a model that ensures that all data is cyber-protected, not misused and used only to the extent necessary. It can be argued that the envisaged digital euro model is suitable for user privacy, as European Union legislation is robust regarding user data protection (e.g. GDPR). At the same time, however, it is assumed that digital euro data will be pseudonymised, that data in the system will only be available to the extent critical to the functioning of the currency, and that the data will also be under the complete control of the user (European Central Bank, 2023, pp. 38–39).

## **6. Analysis of the challenges in Czech legislation and possible solutions**

Czech legislation also contains several legislative challenges, which have been mentioned above. The existing key legislation for the Czech Republic is Act no. 6/1993

Sb. on the Czech National Bank, as amended, which defines the Czech National Bank as the key institution in the area of banknote and coin issuance in the country. It follows from the provisions of Section 12 of this Act that the Czech National Bank is granted the right to issue coins, banknotes and commemorative coins and notes (Act on the Czech National Bank, 1993). Suppose we focus on the linguistic interpretation of this provision; in that case, it is necessary to conclude that the Czech National Bank is entitled to issue only the exhaustively specified monetary instruments and that it is not competent to issue any monetary instruments other than coins and banknotes. The conclusion, therefore, remains that the Czech National Bank is not authorised to issue CBDCs without a change in the law. We can then analyse the provisions of Section 14 of the Act on the Czech National Bank, which state that the Bank 'shall manage the stock of banknotes and coins and organise the supply of banknotes and coins from manufacturers by the requirements of money circulation', and Section 15: 'the Czech National Bank arranges for the printing of banknotes and the minting of coins and supervises the protection and security of banknotes and coins not issued for circulation and the safekeeping and destruction of printing plates, stamps, and invalid and scrapped banknotes and coins' (Act on the Czech National Bank, 1993). From these provisions, it is possible to identify the keywords used to confirm the above thesis. We conclude that the Czech National Bank manages the stock, custody and destruction of printing plates, stamps, and invalid and discarded banknotes and coins, and organises the supply of banknotes and coins from manufacturers. It follows that coins and banknotes are of a material nature, not digital; thus in a more metaphysical interpretation, we must conclude that they are only material, and not even apparently digital. Given that CBDC technology is relatively new, we consider it irrelevant to apply a subjective-historical interpretation, since it is clear that it could not have been the intention of the legislature at the time of the adoption of the Czech National Bank Act to cover these modern technologies as well. In conclusion, the Czech National Bank is not authorised to issue token-based CBDCs under the current legal framework.

Similar but different is the situation in the case of account-based CBDCs, where the Czech National Bank is very similar to other central banks of states that are members of the International Monetary Fund, in terms of the possibility of opening accounts for entities other than those specified in law. As can be seen from the provisions of Section 33 of Act no. 218/2000 Sb. on Budgetary Rules, the Czech National Bank is authorised to maintain 'Treasury accounts and accounts subordinate to the Treasury' (Act on Budgetary Rules, 2000). These specified entities are the state, organisational units of the state, the State Fund and the National Fund, contributory organisations established by the state, the Railway Administration, territorial self-government units, public research institutions, public universities, public health insurance companies, other legal entities with the consent of the Ministry of Finance, the Export Guarantee and Insurance Corporation, the Czech Export Bank and state enterprises. According to the provisions of Section 32 of the Act on the Czech Na-

tional Bank, the Bank is also authorised to maintain accounts for banks, foreign banks, savings and credit cooperatives and, according to the provisions of Section 34, for employees of the Bank. In conclusion, it is possible to say that although the Czech National Bank is not granted the competence to issue CBDCs in the general sense, if this competence existed, it would at least have a legislative basis for issuing whole-sale account-based CBDCs that would be available to the above-mentioned entities. If the Bank were empowered to issue CBDCs and, in addition, were granted the competence to issue retail account-based CBDCs, the necessary legislative change would be minimal. It would essentially correspond to either an extension of the entities that are currently in the legislation in force or, on the contrary, a complete change in the provision could be made, granting the Czech National Bank the power to open and maintain accounts to all entities (i.e. including the general public).

It is evident that the problem of the Czech National Bank's lack of authority to issue CBDCs cannot be overcome by interpretation or analogy, and it is necessary to amend the wording of the Act. However, any change in the law cannot be made without defining what CBDCs really are. We assume defining what a CBDC means in Czech terms is initially necessary; we believe the ideal concept is 'a digital koruna is the digital equivalent of coins and banknotes'. However, this concept can only be applied to amending the Act on the Czech National Bank by extending the current wording of Section 12 of Act no. 6/1993 Sb. on the Czech National Bank to read: 'The Czech National Bank has the exclusive right to issue banknotes, coins, and the Digital Koruna.' However, it should be noted that this change in the law would allow the CNB to issue only token-based, not account-based, CBDCs. For the CNB to be empowered by law to issue account-based CBDCs, the definition of a 'digital koruna' would have to be changed, so that the new definition would read: 'The Digital Koruna is a representation of the Czech koruna that is held in the form of balances in a payment account that is maintained on the Digital Koruna network.' Of course, the provisions of Section 12 would have to be modified identically, as stated above. It would also be necessary to extend the provisions of Section 34 of Act No 6/1993 Sb. by adding a third paragraph, reading: 'The Czech National Bank is the exclusive entity that may open and manage bank accounts held on the Digital Koruna network or delegate this authority to another financial institution.' This amended provision of Section 34(3) of the Act also allows for the consideration of the possibility of a direct, indirect or hybrid CBDC model and in conjunction with Section 12 of the Act also allows the CNB to issue account-based CBDCs.

The issue of legal tender is also applicable in Czech law, specifically in the provisions of Section 16 of the Czech National Bank Act, which states that only '[v]alid banknotes and coins issued by the Czech National Bank are legal tender in their face value for all payments in the Czech Republic' (Act on the Czech National Bank, 1993). If the state wishes to have a CBDC enshrined as legal tender, it is necessary

to extend the wording of the Act to include CBDCs as a form of legal tender; otherwise, they cannot automatically become legal tender.

## Conclusion

Although introducing CBDCs in the Czech environment might initially seem simple, the opposite is true. The very definition of the forms of CBDC brings us to a situation where each has its specificities and differences. The definition of CBDCs also appears to be complicated. In addition, each type of CBDC impacts the legislative environment and needs to be regulated differently, or legislative changes need to be applied to introduce them. This is similar to the case of the two-tier banking system, which is possible where the purpose of the CBDC is not to replace the private banking system, but the CBDC must then be issued in a phased manner. In addition, the total number of CBDCs must be limited to minimise the risk of jeopardising the stability of the monetary system.

In the event of an attempt to introduce CBDCs into the Czech legal system, the state has to deal with many challenges. The most pressing of these are legislative, where changes to legislation would need to be made to correspond with the chosen CBDC concept. The Czech National Bank, as the key authority in the area of the monetary system, will of course play a crucial role in this process. The legislative challenges must be dealt with both before the preparation of the CBDC project and before the implementation of the CBDC into the legal system. Our analysis of the Czech legislation showed the above results, where a solution was also outlined, which may not be applicable in all countries but is sufficient for the Czech Republic.

As follows from Czech legislation, in cases where a legislature (whether Czech or foreign) decides to issue a national CBDC, it is absolutely essential that the initial research is focused on a legislative assessment of whether the individual models are compatible with the current legislation and whether there is no need to change the law at a very basic level, as it is absolutely clear from the currently available statistics that most states do not have the legal basis to simply issue a CBDC and the powers to do so do not exist. In Sweden, for example, even if one spent several years on research and arrived at a successful or working prototype CBDC, one is not able to issue a CBDC without the active involvement of the legislature. It can therefore be concluded that legislation should have been prepared before the prototype was ready.

In conclusion, given the above, Czech legislation does not currently allow for the direct introduction of a CBDC in the Czech Republic. It is therefore evident that the hypothesis that was set out above has been confirmed, and it is obvious that each of the options considered here would ultimately lead to a need to change the laws in the Czech Republic, as they do not meet the requirements of a digital currency as defined by the Czech National Bank. On the other hand, it should be noted that no insur-

mountable obstacle would prevent the introduction of a CBDC. The Czech Republic should consider active research into and the possible initiation of CBDC prototypes, as such a payment system may be an interesting alternative to the current cash or non-cash system. Legislative pitfalls are only a political problem in the Czech Republic, since law is not that complicated to change.

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