

News



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49 cryptocurrency companies won a lawsuit against financial intelligence unit (FIU) in Estonian court

Tallinn Circuit Court has made the decision on 13 October 2021, according to which 49 cryptocurrency companies won the lawsuit against Financial Intelligence Unit of Estonia, a supervision authority for cryptocurrency companies. The court found that the FIU acted unlawfully with the companies, refusing to issue a cryptocurrency services' business license; therefore the court annulled the respective decisions of FIU.

According to the circumstances of the case, among others, in 2020, the FIU refused to issue operating licenses to several cryptocurrency companies. It has now been established through two court instances that the activities of the FIU were unlawful and that there was no legal basis for refusing to issue the licenses.

The companies that went to the court had applied for a license referring to the same office space address, i.e all were registered in one place. The court noted however that this is allowed, thus such fact may not be used as a legal ground for refusing of the business license applications, also that the FIU must first and foremost perform the supervision by monitoring the cryptocurrencies activities, not to simply ban the activities in order to achieve its objectives.

The FIU has previously publicly expressed that they 'do not tolerate' such companies. The FIU is of the opinion that such an arrangement, where nearly 50 companies operating on the same twenty square meters of commercial space and are related to the same persons, is in a conflict with the general principles of protection of clients' interests and assets. According to the FIU, such a construction enables service providers to be exploited for negative purposes, so that the customers, as well as the Estonian state and its reputation suffer in the end. The FIU has marked that "the legislator has given a mandate to the FIU to protect those interests, which the FIU has already done and will continue to do so".

This court decision shall affect the planned amendment to the law which would strictly regulate the freedom of action of cryptocurrency companies. The new law must consider the rewording related to the lost cases of the FIU.

Among other things, the new law act draft provides that the regulation of virtual currencies will be dealt with by the Financial Supervision Authority (FSA) instead of the FIU. The share capital requirement shall be raised from EUR 12 000 to EUR 350 000. The virtual currency service providers and investment intermediation service providers should periodically start paying a supervision fee to the FSA on the basis of the share capital, transaction volume, etc. The holders of a virtual currency service provider operating license should bring their activities in compliance with the new requirements by 18.03.2022 at the latest. Otherwise, the FIU shall revoke the licenses. The draft is scheduled to enter into force on 1 January 2022. Although, these deadlines may change.

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