

CONCEPTS AND CHARACTERISTICS OF VIRTUAL ASSETS

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Currently, in Ukraine, the Law of Ukraine "On Virtual Assets" has been adopted, but it has not yet come into force. The legislator proposes the following definition: "a virtual asset is an intangible good that is an object of civil rights, has value, and is expressed by a set of data in electronic form." Accordingly, the existence and transferability of a virtual asset is ensured by a system for facilitating the circulation of virtual assets. A virtual asset can certify property rights, including rights of claim to other objects of civil rights [1].

There is also a definition reflected in paragraph 13 of part 1 of Article 1 of the Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction," specifically, a virtual asset is a digital expression of value that can be traded in digital format or transferred and can be used for payment or investment purposes [2]. This Law provides a narrower understanding of the scope of use, as the concept of virtual assets does not cover NFTs – non-fungible tokens that are the result of digital transformation of artistic and other works and are not means of exchange or investment. These definitions differ, so even at the legislative level; there is no unified approach to understanding the concept of virtual assets.

Normatively established definitions of the term "virtual asset" reflect different aspects of the same phenomenon. The first approach emphasizes the following characteristics: a) intangible good; b) has a value equivalent; c) manifests in the form of a set of data in electronic form. The second approach emphasizes other features: a) it is property and an object of circulation in digital format; b) acts as a digital equivalent of value. Although the optimal solution is to combine these approaches to create a unified definition of "virtual asset" that can be effectively applied in legislation [3].

The legal position of the European Union regarding virtual assets is set out in EU Directive 2018/843, particularly in which another concept is traced - "virtual currencies," defined as a digital representation of value that is not issued or guaranteed by a central bank or public authority, is not necessarily tied to a legally established currency, and does not have the legal status of currency or money, but is accepted by natural or legal persons as a means of exchange that can be transferred, stored, or traded electronically [4].

On October 5, 2022, European Union legislators agreed on a draft regulation "Markets in Crypto Assets" (MiCA). The very name of this document shows a transition from the concept of "virtual currency" to the term "crypto-asset." This is due to the expansion of the meaning of this term and its technological development. According to MiCA, a crypto-asset is defined as a digital

representation of value or rights that can be stored and transferred electronically using distributed ledger technology or similar technologies [5].

Analysis of international experience and norms of domestic legislation indicates the absence of a unified approach to defining the concept of "virtual asset." However, the above allows us to identify certain key characteristics: first, the creation, functioning, and circulation of virtual assets occur exclusively in a virtual (digital) environment; second, virtual assets, although they are a certain set of data, have property value, and this value is determinative for them; third, they can serve as an instrument of accumulation, settlement, and be a subject of investment.

References:

1. On Virtual Assets: Law of Ukraine dated February 17, 2022, No. 2074-IX: as of November 15, 2024. URL: <https://zakon.rada.gov.ua/laws/show/2074-20#Text>;
2. On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction: Law of Ukraine dated December 6, 2019, No. 361-IX: as of January 1, 2025. URL: <https://zakon.rada.gov.ua/laws/show/361-20#Text>;
3. Bondarenko O.V. VIRTUAL ASSETS: THEORETICAL AND LEGAL CHARACTERISTICS. Legal Scientific Electronic Journal. 2023. No. 1. P. 623–625. URL: <https://doi.org/10.32782/2524-0374/2023-1/146>;
4. Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU: EU Directive dated May 30, 2018, No. 2018/843. URL: https://zakon.rada.gov.ua/laws/show/984_010-18#Text;
5. Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (Text with EEA relevance). Official Journal of the European Union. 2023. L 150. P. 40–205. URL: <http://data.europa.eu/eli/reg/2023/1114/oj>.

PROTECTION OF HUMAN RIGHTS AND FREEDOMS UNDER MARTIAL LAW IN UKRAINE

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Consideration of the problems faced by the civil society in Ukraine under martial law is a complex task that requires a comprehensive research. The rule of law is defined as the principle by which every person, institution or organ of the state is subject to the laws in force. Under martial law, this principle becomes the key to maintaining public order and guaranteeing the protection of citizens' rights and freedoms. One of the key aspects that needs to be considered in the context of the rule of law under martial law is the balance between the need to ensure the