CHAPTER 6. LEGAL REGULATION OF INNOVATIVE DEVELOPMENT OF BUSINESS STRUCTURES

LEGAL REGULATION OF THE VIRTUAL ASSETS MARKET AND LEGAL STATUS OF VIRTUAL ASSETS MARKET PARTICIPANTS IN UKRAINE

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1. Formation and development of the legal status of digital assets in Ukraine

Virtual assets offer a significant expansion of the spectrum of financial services, and will have significant potential in terms of social and economic change. Of course, business structures, as the most innovative, client-oriented and competitive, were the first to respond to modern challenges.

But in order for the market of virtual assets to be able to work in Ukraine, it is necessary to decide on the legal status of the market of such assets. Legal relations arising in connection with the circulation of this type of intangible assets may go beyond the Internet, and therefore require special legal regulation.

Ukraine has a strong potential to take a leading place in the global digital economy. In particular, this will be facilitated by the launch of the legal market of virtual assets. The entry into force of this draft law will allow Ukrainian blockchain companies to legalize their own business processes and officially work with the banking system. In addition, citizens who receive income from operations with virtual

assets will also have this opportunity, which will contribute to the elimination of legal risks for the work of international crypto companies and the attraction of foreign investments in a new progressive industry [1; 183].

The introduction of regulation of the virtual assets market in Ukraine is an extremely urgent issue, given their wide perception among the population. Increased monitoring of activities related to virtual assets is necessary and the implementation of surveillance of this market can help to solve urgent issues. In 2022, the Law of Ukraine "On Virtual Assets" [2] (hereinafter - Law 2074) was adopted, which will enter into force from the date of entry into force of the Law of Ukraine on Amendments to the Tax Code of Ukraine on the Features of Taxation of Transactions with Virtual Assets [3], which has not yet been adopted by the Verkhovna Rada of Ukraine.

In fact, the market of virtual assets has existed in Ukraine for several years, but only now we have come to the conclusion that the legalization of this market is necessary, and accordingly, the introduction of legal norms that will regulate this market into national legislation. This is precisely the purpose of the introduction of the Law "On Virtual Assets" [2] in Ukraine.

However, the first attempt to determine the legal position and legislative regulation of the circulation of virtual assets can be considered the Explanation of the NBU "Regarding the legality of the use of the "virtual currency/cryptocurrency" Bitcoin" in Ukraine. In this explanation, the NBU noted that it considers the "virtual currency/cryptocurrency" Bitcoin as a monetary surrogate that does not have real value and cannot be used by individuals and legal entities on the territory of Ukraine as a means of payment, as it contradicts the norms of Ukrainian legislation [4]. The same position was expressed by the National Bank of Ukraine in the Letter dated 08.12.2014 under No. 29-208/72889, where it also defined Bitcoin as a monetary surrogate that does not have real value [5]. Currently, NBU letter No. 29-208/72889 has become invalid based on National Bank of Ukraine Letter No. 40-0006/16290 dated March 22, 2018. So, on the basis of the above-mentioned documents, we can conclude that in the period from 2014 to 2018, Bitcoin, and therefore other cryptocurrencies, was officially recognized as a monetary surrogate in Ukraine.

The legal definition of a monetary surrogate is contained in the Law of Ukraine "On the National Bank of Ukraine": a monetary surrogate is any document in the form of currency signs that differ from the monetary unit of Ukraine, issued for circulation by a non-National Bank of Ukraine and produced for the purpose of making payments in business transactions , except currency values [6, Article 1]. Thus, the definition of a monetary surrogate is given mainly through a list of exclusions.

That is, for the period of 2014-2018 within the legal field of Ukraine, the legal nature and legal form inherent in cryptocurrency were as follows: cryptocurrency as a kind of monetary surrogate, by its legal nature, is not a currency value (it is not a national or foreign currency or bank metal), issued (introduced into circulation) not by the central bank of the state, produced for the purpose of making payments/settlements, but at the same time prohibited (officially not allowed) for use during or for making payments/settlements. On the other hand, its external manifestation can be its existence in the form of a document in the form of monetary signs (banknotes, coins, in other forms). And if we apply this last feature to cryptocurrency, we must note that it is not just a document, but rather an electronic/digital document in the form of cryptographic symbols. In this way, cryptocurrency is given a legal form, using the existing legal terminology ("document" "in the form of (certain) signs") to denote it, synthesizing it (terminology) with the technical features of the phenomenon itself - "cryptocurrency".

Therefore, cryptocurrency was not recognized as a means of payment in Ukraine at that time.

A new stage was the receipt by the Verkhovna Rada of Ukraine of the "Draft Law on Cryptocurrency Circulation in Ukraine" No. 7183 [7]. This bill proposed to define cryptocurrency as "program code (a set of symbols, numbers and letters), which is an object of ownership, which can act as a means of mining, information about which is entered and stored in the blockchain system as accounting units of the current blockchain system in in the form of data (program code)".

The next step was the receipt by the Verkhovna Rada of Ukraine of the "Draft Law on Stimulating the Market of Cryptocurrencies and Their Derivatives in Ukraine" No. 7183-1 dated October 10, 2017. In this draft law, it was proposed to define

cryptocurrency as follows: "cryptocurrency is a decentralized digital measure of value that can be expressed in digital form and functions as a means of exchange, storage of value or a unit of accounting, which is based on mathematical calculations, is their result and has cryptographic protection of accounting . For the purposes of legal regulation, cryptocurrency is considered a financial asset" [8].

But the conceptual apparatus was not sufficiently developed in the above draft laws, there were many other gaps and contradictions in the field of regulation of digital assets.

And in September 2021, the Draft Law of Ukraine "On Virtual Assets" was adopted in the second reading, and on February 17, 2022, the Law of Ukraine "On Virtual Assets" was adopted. Unlike previous draft laws, the term "cryptocurrency" is no longer used at all, instead, a new concept - "virtual asset" - has been proposed. In the text of the draft law adopted in the first reading, a virtual asset was proposed to be understood as "a set of data in electronic form that has a value and exists in the system of circulation of virtual assets." Before the second reading, the concept of a virtual asset was changed, it was proposed to mean "an intangible asset that is the object of civil rights, has a value and is expressed by a set of data in electronic form."

In addition to the above-mentioned laws in the field of regulation of virtual assets, it is also necessary to take into account the separate provisions of the following regulatory legal acts:

The Law of Ukraine on Prevention and Counteraction of Legalization (Laundering) of Proceeds of Crime, Financing of Terrorism, and Financing of Proliferation of Weapons of Mass Destruction [9];

Law of Ukraine on Banks and Banking Activity [10];

Law of Ukraine on financial services and state regulation of financial services markets [11];

Law of Ukraine on Currency and Currency Transactions [12];

Law of Ukraine on Capital Markets and Organized Commodity Markets [13];

Civil Code of Ukraine [14];

Law of Ukraine on Financial Services and Financial Companies [15];

Regulations of the National Bank of Ukraine on operations with currency values [16].

2. Basic concepts of digital assets.

Of course, the development of new technologies, products and services related to them have the potential to stimulate innovation in the financial sphere, the development of digital technologies, and this in turn led to the emergence of a new concept - "digital (virtual) asset". So, when clarifying the concept of a digital asset, we will adhere to certain substantive and semantic features presented by four components: economic; legal; informative; valuable

The economic component is represented in the financial sphere by the presence of a unique identifier. The legal component is represented in the legal sphere as derived from law. The information component is represented by an information resource that rotates in a distributed registry. The valuable component is represented in the field of tangible and intangible goods by the component "Value" [17].

In the legal field of Ukraine today, there was no unified approach to understanding the content of the definition of this concept. And so far, a virtual asset is equated with the concept of "virtual currency", but a virtual asset is a much broader concept due to its embedded essence, it is an information resource derived from the right to value and such that rotates in a distributed ledger in the form of a unique identifier that allows talk about a new object of civil legal relations - the right to use information derived from the right to value. Of course, most people associate the word "assets" either with the balance sheet or with investing and receiving income from owning assets. This definition was not fully disclosed in the national legislation.

In accordance with the Law of Ukraine "On Prevention and Counteraction of Legalization (Laundering) of Criminal Proceeds, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction", assets are funds, including electronic money, other property, property and non-property rights [9, Art. 1].

Another definition of "asset" is specified in the Law of Ukraine "On Accounting and Financial Reporting in Ukraine". According to this Law, assets are resources controlled by the enterprise as a result of past events, the use of which is expected to lead to economic benefits in the future [18, Article 1]. That is, here we already see such an important criterion as the potential future receipt of economic benefits. Thus, we point out that from the point of view of the Law on Accounting, an asset is not only what can be owned, but also what is expected to provide economic benefit in the future.

Civil Code of Ukraine in Art. 177 also defines that objects of civil rights are things, including money and securities, other property, property rights, results of work, services, results of intellectual and creative activity, information, as well as other tangible and intangible goods [14] . And the same Code stipulates that objects of civil rights can be freely alienated or transferred from one person to another in the order of legal succession or inheritance or in another way, if they are not removed from civil circulation, or are not restricted in circulation, or are not non-disposable. from a natural or legal person [14, Article 178].

The legal definition of the term "virtual asset" is contained in Art. 1 of the Law of Ukraine "On Virtual Assets" is an intangible good that is the object of civil rights, has value and is expressed by a set of data in electronic form. The existence and liquidity of a virtual asset is ensured by the system of ensuring the turnover of virtual assets. A virtual asset can testify to property rights, in particular, rights of claim to other objects of civil rights [4].

Also, the Civil Code of Ukraine in Art. 178 defines that objects of civil rights are negotiable, that is, those that can be freely alienated or transferred from one person to another in the order of legal succession

or inheritance or otherwise, if they are not removed from the civil turnover, or are not limited in turnover, or are not inseparable from natural or legal person.

According to the Law on Virtual Assets, the turnover of virtual assets is all legal relations related to virtual assets that arise between participants in the virtual assets market, as well as between them and the state.

Therefore, it can be concluded that by the Law "On Virtual Assets" together with the Civil Code of Ukraine, virtual assets are currently directly classified as objects of civil rights in the form of intangible assets and endowed with turnover capacity.

A virtual asset as an object of civil relations arises from the moment of its creation. In accordance with Art. 5 of the Law "On Virtual Assets", the moment of creation of a virtual asset is the moment from which the first owner gets the opportunity to own, use and dispose of a virtual asset in the system of ensuring the turnover of the corresponding virtual asset, if it is not possible to reliably establish another moment of creation of the virtual asset, based on technical features systems for ensuring the turnover of virtual assets.

The turnover of a virtual asset starts from the moment of its creation and is carried out until the moment of termination of the turnover of the virtual asset.

3. Types of digital assets.

Usually, given the uncertainty and complexity of legal regulation of the field of digital assets, global legal practice and state regulation comes down to establishing a single classification of such assets.

First of all, it is necessary to understand what exactly the concept of "virtual assets" means in the global context. When it used to refer only to the description of cryptocurrencies, now virtual assets can be called assets that meet the following parameters: have a digital expression of value; freely traded on the market; has a clear circulation and identification system.

According to Art. 4 of the Law "On Virtual Assets", a simplified classification is established in Ukraine: "Virtual assets are an intangible asset, the specifics of which circulation are determined by the Civil Code of Ukraine and this Law. Virtual assets can be unsecured or secured" [2, Article 4].

Moreover, the Law of Ukraine "On Payment Services" [19] establishes the concept of digital money of the National Bank of Ukraine, as an electronic form of monetary unit of Ukraine, the issuer of which is the National Bank of Ukraine.

Therefore, the legislator in Ukraine proposes to classify virtual assets into two types: secured and unsecured, distinguishing a separate subtype in secured assets - the digital currency of Ukraine. In addition, financial virtual assets are defined, which can be secured by currency values or a security or a derivative financial instrument.

So, in general, we can distinguish three types of virtual assets, these are:

- unsecured – virtual assets that do not evidence any property or non-property rights (for example, Bitcoin);

- secured – virtual assets evidencing property rights, in particular claims on other objects of civil rights (for example, individual stablecoins);

- financial – virtual assets secured by securities or hryvnia (for example, security tokens).

The Advice on Virtual Assets and Initial Coin Offerings developed by the European Securities and Markets Authority [20] clarifies which provisions of current EU legislation can be applied to the virtual asset market and proposes a classification of virtual assets consisting of three types: payment , investment and service assets. According to the type of virtual assets, the provisions of EU legislation are also determined.

Payments - just like Bitcoin, have high liquidity, low transaction costs, the ability to be used for fast payments over the Internet and for making micro payments. They are subject to Directive No. 2009/110/EC dated September 16, 2009 [21], which establishes the rules for the use of electronic money and establishes provisions on state supervision of their circulation, and Directive No. 2015/2366/EC dated November 25, 2015 [22], which regulates the provision of payment services and promotes the protection of the rights of their consumers in the EU.

In addition, the Directive dated 30.05.2018 No. 2018/843 [23], known as the Fifth Anti-Money Laundering Directive (5AMLD), distinguishes between virtual currencies and electronic money and states that virtual currencies , unlike electronic money, can be used as a means of payment, at the same time they can also have other uses: as a means of exchange, investment, preservation of value.

Investment - which are covered by the norms established by the Directive dated 15.05.2014 No. 2014/65/EU [24], are such virtual assets that can be qualified as negotiable securities or other financial instruments.

And official ones - which are not covered by the norms of EU legislation - are those created in order to ensure the possibility of their use to purchase or gain access to a certain product or service provided by their issuer. The obligation to accept official virtual assets arises only from their issuer, and therefore they cannot be recognized as electronic money.

The classification of virtual assets is offered both by scientists and international organizations in the form of advice and recommendations. Only certain countries determine the legal status of virtual assets or certain types of them.

Each country adheres to its own logical principles of state regulation, which consist in different degrees of settlement of existing social relations, therefore the legislation of different countries tries to implement internal regulation taking into account international legal institutions of legal regulation, such as:

– protection of personal data (in particular, the Regulation of the European Parliament and the Council of the EU "On the protection of natural persons in connection with the processing of personal data and on the free movement of such data" for EU countries) [25];

– identification and verification of business entities (recommendations of the FATF, "White Paper. Blockchain in simplified trade" of the Commission for the simplification of trade and electronic business of the UN European Economic Commission);

- prevention of legalization of funds obtained through criminal means (FATF recommendations, norms of the 4th Directive (EU) 2015/849 "On preventing the use of the financial system for money laundering and terrorist financing" and Regulation (EU) 2015/847 "On information accompanying money transfers") [26];

- prevention of tax evasion (Multilateral Convention on the Implementation of Measures Related to Tax Agreements with the Purpose of Countering Tax Base Erosion and Tax Evasion, dated November 24, 2016) [27].

For example, French legislation, in accordance with Directive 2015/2366 of the European Parliament and of the Council of November 25, 2015 "On payment services in the internal market" (PSD2) [28] and Directive (EU) 2009/110/EC of September 16, 2009 "On initiation, implementation and prudential supervision of the activities of institutions working with electronic money" [29] introduces the following interpretation of the types of digital assets and transactions with them.

Distinguish:

1) tokens, that is, intangible digital assets, including rights that can be issued, registered, stored and transferred electronically, if they do not qualify as financial instruments;

2) any digital representation of value that is not issued or guaranteed by a central bank or government body, is not necessarily tied to a legally established currency and does not have the legal status of currency or money, but is accepted by individuals or legal entities as a means of exchange , which may be transmitted, stored and sold electronically.

UK legislation defines three types of cryptoassets, including:

1) exchange tokens that are not issued and not supported by the central bank, but are intended for use as a means of exchange;

2) securitized tokens that have the characteristics of securities, such as shares, shares, etc.;

3) service (auxiliary) tokens, which give their holders access to certain features (services, etc.), but do not grant rights similar to those obtained by holders of securitized tokens.

Meanwhile, at the level of the European Parliament, definitions are already being used, which combined the division of virtual assets adopted in Great Britain and France and established differentiation into two large groups:

– sovereign (central bank digital currencies – CBDC);

- private (which are divided into cryptocurrencies, tokens and hybrid assets that combine some features and properties of tokens and currencies at the same time).

The specified classification is already stable and is used by the European Central Bank and the European Commission for crypto-assets.

Whether it is necessary to introduce Ukraine's own classification of virtual assets, which is not implemented in the categories defined by European legislation, especially in the aspect of the development of the actually new EU Directive (2019/1937) [30] on the regulation of crypto-assets, is quite doubtful.

Determining virtual assets only based on the fact that they are secured by non-virtual assets is dangerous from the point of view of establishing an unclear legal regime of regulation, inconsistency of the types of crypto-assets in Ukraine with EU crypto-assets, which can lead to legal conflicts and, in fact, the non-recognition of Ukrainian legal regulation of virtual assets by key financial institutions the world

When developing a mechanism for legal regulation of blockchain technologies, it is necessary to take into account the use of an extended classification of virtual assets, using the international experience of countries where there are already relevant regulatory acts and there is experience in law enforcement.

The only adequate and logical way is the direct implementation of the legal regulation of the main trade partners of Ukraine with the aim of unifying the legal regulation, the order of protection of the rights of the parties to transactions, uniform institutional approaches during the resolution of disputes, the fulfillment of requirements for identification, prevention of theft of assets and laundering of funds obtained through criminal means. protection of personal data.

4. Legal status of virtual assets.

As already mentioned above, until the Law "On Virtual Assets" enters into force, such assets are not subject to any regulatory regime, including, they cannot be considered securities.

In connection with the adoption of Law 2074 [2] in Ukraine, the legal regime of virtual assets will change accordingly. If until recently in Ukraine the legal status of virtual assets remained somewhat uncertain, then from the moment of entry into force

of the Law on Virtual Assets - virtual (or digital) assets will already have their defined legal status.

It is important to understand that Law 2074 aims to establish rules for service providers related to the circulation of virtual assets and liability for violations of the established rules, and, as stated, is based on the current standards for the regulation of transactions with virtual assets of the International Anti-Money Laundering Group (FATF). The law does not regulate the issue of taxation of operations related to virtual assets.

The scope of application of the Law is limited to a defined circle of legal relations, in particular, cases when:

- the parties defined the law of Ukraine as applicable to the deed, the subject of which is a virtual asset, as a whole or to a separate part of it;

- both parties to the transaction, the subject of which is a virtual asset, are residents of Ukraine;

- a person who carries out transactions with virtual assets in his own interests (purchaser of a virtual asset) is a resident of Ukraine;

- in the case of the supply of services related to the turnover of virtual assets, the subjects of legal relations have a registered location or a permanent representative office on the territory of Ukraine.

Having analyzed the concept of a virtual asset proposed by Law 2074 - an intangible good that is the object of civil rights, has a value and is expressed by a set of data in electronic form - it is possible to distinguish the following features:

- intangible good;

- is the object of civil rights;

- has value;

- a virtual asset is expressed (exists) in electronic form in the form of a collection of data;

- existence is ensured by the system of ensuring the turnover of virtual assets. In other words, the "life" of a virtual asset is ensured by the appropriate software complex.

But, even despite this, when analyzing Law No. 2074-IX, questions and uncertainties still arise regarding the very understanding of the essence of a virtual asset.

One of the most pressing questions that has arisen since the adoption of Law No. 2074 is whether a virtual asset is the same as a cryptocurrency or a broader concept of a virtual asset, and how a virtual asset is related to electronic money.

Regarding the question of the relationship with electronic money, the Law on Virtual Assets gives us an unequivocal answer in Part 3 of Art. 2. It is determined there that this Law does not apply to legal relations related to the issuance, circulation, storage and repayment of electronic money, as well as to legal relations arising during the emission, circulation, redemption of securities and the fulfillment of obligations under them , conclusion and execution of derivative contracts, replacement of parties to derivative contracts and execution of transactions regarding financial instruments on the capital markets, operation of software or software-hardware complexes of electronic data exchange, which ensure the implementation of the specified legal relations regarding financial instruments, as well as relations arising during carrying out professional activities on capital markets and organized commodity markets.

Regarding the identity of the cryptocurrency virtual asset. Currently, the national legislation does not contain the exact definition of cryptocurrency, some lawyers and financiers believe that it is actually a subspecies of electronic money, and therefore in this sense the Law "On Virtual Assets" does not apply to cryptocurrencies...

If we analyze the definition of a virtual asset and its characteristics (not material, has value, exists only in digital form and within a certain electronic system), cryptocurrency fits this definition. Not only it meets the same features, because, for example, digital tokens, game skins or NFT (non-fungible token) also meet the definition of a virtual asset.

And in this way, we can conclude regarding the identity of virtual asset and cryptocurrency that the latter, although it has certain features of a virtual asset, is not the same concept.

Even more, cryptocurrency is a means of payment, which is essentially its most important feature. At the same time, a virtual asset cannot be used to pay for goods or services and is not a means of payment on the territory of Ukraine (Part 7 of Article 4 of the Law "On Virtual Assets"[14]). But, at the same time, virtual assets can be exchanged for other virtual assets or hryvnias, with the exception of the cases stipulated by the NBU, where exchange for currency values, foreign currency, other currency values is also possible.

So, there is a certain problem both in understanding and in defining what a digital asset is, what is its peculiarity and difference or identity with cryptocurrencies. Accordingly, we need either a clear definition of the concept of cryptocurrency, or, for example, a more detailed explanation of the relevant state body regarding the concept of a virtual asset, its varieties, etc.

But in general, the analysis of the definition enshrined in the Law indicates the direction of the legislator not to limit its understanding exclusively to cryptocurrency, although it can be assumed that it was cryptocurrency that was the main focus of the legislative work and Law 2074. Disclosure of the meaning of the concept of a virtual asset in the context of Law 2074, as a concept of an intangible good, expressed by the totality of data in electronic form, as we can see, it allows to attribute to virtual assets not only cryptocurrencies, but also any NFT token, i.e. unique, non-interchangeable cryptographic tokens, as well as any arrays of data stored and reproduced in electronic form that have value. But even after such a definition, questions remain: for example, whether it is possible to consider accounts in social networks as a virtual asset, and the tangible and intangible goods generated within them, reputational, advertising and related goods, expressed in particular in the number of subscribers, influential - what such accounts do to subscribers, etc. We assume that certain aspects in this regard will be clarified by law enforcement practice, which will lead to the improvement and clarification of the details of Law 2074.

Today, among the regulators of the world's leading countries, including the countries of the European Union, there is no single approach to determining the legal status of cryptocurrencies and regulating transactions with them. The concept of

cryptocurrency varies from identification with the concepts of "goods", "means of payment", "unit of account" to the concepts of "intangible asset", "investment asset", "financial asset", "separate type of securities", etc. In this case, it becomes necessary to analyze each of the proposed concepts.

Digital goods are any goods that are sold, delivered and transferred in digital form. Many of the most common examples of digital goods are media files, including music files, video files containing movies or television programming, branded multimedia files, and other similar products.

An electronic payment instrument is a payment instrument implemented on any medium that contains in electronic form the data necessary to initiate a payment transaction and/or perform other transactions defined by the contract with the issuer [19].

A unit of account (notional or artificial unit) is a unit of special drawing rights defined by the International Monetary Fund. In accordance with the definition in Article 9 of the Code of Merchant Shipping dated 23.05.1995, the specified amounts are transferred to the national currency of Ukraine at the official rate of this currency to the unit of the "special borrowing right" published by the National Bank of Ukraine on the day of the creation of the restrictive fund, and if the restrictive the fund is not created - on the day of payment.

Intangible assets are rights to the results of intellectual activity, which usually do not have a physical form, for example, copyrights, licenses, patents, or the excess of the market price of the enterprise over its book value (goodwill). In financial accounting and reporting, the value of such rights is included in the division of assets.

According to the Regulation (standard) of accounting [31], an intangible asset is a non-monetary asset that does not have a material form and can be identified. An intangible asset purchased or received is recognized if it is probable that the entity will receive future economic benefits associated with its use, and its value can be reliably determined.

According to the Tax Code [32], intangible assets are the ownership right to the results of intellectual activity, including industrial property, as well as other similar

rights recognized as the object of ownership (intellectual property), the right to use property and property rights of the taxpayer in the established according to the legislation, including the rights to use natural resources, property and property rights acquired in the procedure established by the legislation.

According to the International Accounting Standard [33], an asset is identifiable if it: a) can be separated, that is, it can be separated or separated from the entity and sold, transferred, licensed, leased or exchanged individually or together with by a contract, identifiable asset or liability, whether or not the entity intends to do so, or b) arises from contractual or other legal rights, whether or not they can be transferred or severable from business entity or from other rights and obligations.

In addition, the Law "On Virtual Assets" unequivocally establishes that virtual assets will not be a means of payment on the territory of Ukraine. They cannot be exchanged for goods or services. Therefore, it will be impossible to settle with the help of virtual assets in Ukraine, except to exchange them for other goods, money and currency values through barter, as a result of which, in addition, the activity of crypto exchanges is legalized.

Currently, digital assets in Ukraine are approximately in this legal field. So, let's summarize:

Virtual assets are not a means of payment on the territory of Ukraine and cannot be the subject of exchange for property (goods), work (services) (Clause 7, Article 4 of the Law "On Virtual Assets").

Virtual assets are intangible assets, the specifics of their circulation are determined by the Civil Code of Ukraine and Law 2074; virtual assets can be unsecured or secured, and separately allocated financial assets (clause 1, article 4 of Law 2074);

Unsecured virtual assets do not prove property rights. (clause 2 of article 4 of the Law of 2074);

Secured virtual assets certify property rights, in particular the rights of claim to other objects of civil rights (item 3, article 4 of Law 2074).

The provision of a virtual asset is understood as the certification of property rights, in particular the rights of claim to other objects of civil rights. The security of virtual assets is not security for the performance of an obligation.

A certificate of property rights means confirmation of the right of the owner of the secured virtual asset to claim the object of security (clause 4 of article 4 of the Law of 2074). A certificate of property rights means confirmation of the right of the owner of the secured virtual asset to claim the security object.

The used concept of "certificate" of property rights by a virtual asset may not always correspond to the legal nature of the virtual asset, from which further withdrawal of property or property rights is possible, but in a different form than specified by the Law. Based on a number of other provisions of the Law, it can be argued that collateralization of a virtual asset is understood as its attachment to "real" or fiat values expressed in a non-digital form, in particular according to Part 6 of Art. 4 of Law 2074, financial virtual assets are: a secured virtual asset issued by a resident of Ukraine and secured by currency values; a secured virtual asset issued by a resident of Ukraine, secured by a security or a derivative financial instrument. Accordingly, unsecured virtual assets do not have such reinforcement, and their value is exclusively embodied in a digital, digital form [34].

The object of securing a virtual asset is another object of civil rights, the right of claim to which such a virtual asset certifies. The object of securing a virtual asset is determined by the deed according to which such a virtual asset was created. Property rights, in particular claim rights, to the virtual asset security object are transferred to the acquirer of such virtual asset [35].

5. Ownership of virtual assets.

The need to establish the legal status of virtual assets as an object of civil rights is directly related to the realization of a fundamental human right - the right to property, the protection of which is guaranteed, in particular, by Article 17 of the Universal Declaration of Human Rights [36], Article 1 of Protocol No. 1 to the Convention on the Protection of human rights and fundamental freedoms (hereinafter referred to as

the "Convention") [37]. One of the elements of the content of this right is the ability to dispose of one's property.

The concept of "property" within the meaning of the Convention "has an autonomous meaning that is independent of the official classification in national legislation and is not limited to the right of ownership of physical goods" [37, c. 7]. Property, among other things, also includes company shares and other financial instruments, intellectual property rights, future income [37, p. 11-12].

According to the Civil Code of Ukraine, the right of ownership of a virtual asset is the right of a person to a thing (property), which he exercises in accordance with the law at his own will, regardless of the will of other persons [14, Article 316]. As for any other property, the content of the right of ownership of a virtual asset includes the rights of possession, use and disposal [14, Article 317], if this does not contradict the Law.

The Law "On Digital Assets" defines that virtual assets are intangible goods, and therefore, are objects of civil rights and are subject to protection in accordance with the law.

Thus, virtual assets may be the subject of civil proceedings, as well as the subject of criminal proceedings, if, for example, theft or fraud is committed against the virtual asset.

The right of ownership is acquired on grounds not prohibited by law, in particular from deeds. The right of ownership is considered legally acquired, unless otherwise directly follows from the law or the illegality of the acquisition of the right of ownership or the unreasonableness of the assets in the ownership have not been established by the court (Article 328 of the Civil Code of Ukraine).

The content of the right to own a virtual asset includes the right to own a virtual asset, the right to use a virtual asset and the right to dispose of a virtual asset at one's discretion, if this does not contradict the law, in particular by transferring the right to own a virtual asset (part 5 of article 6 of Law 2074).

Ownership, use and disposal of a virtual asset is recorded in the system for ensuring the turnover of virtual assets (paragraph 6 of article 6 of the Law of 2074). Acquisition conditions, transfer conditions and the scope of rights to virtual assets can

be expressed in the form of algorithms and functions of the system for ensuring the turnover of virtual assets, within which the turnover of virtual assets is carried out (Clause 2, Article 6 of Law 2074).

Given the legal nature of a virtual asset, which is expressed as a set of data in electronic form, such an asset arises from the moment of its creation, use and management of virtual assets is carried out using a virtual asset wallet, and access to such a wallet is carried out using a kind of virtual asset key, which includes, in particular, a code and a password.

The provisions of Article 6 of the Law regarding ownership of a virtual asset are interesting.

In accordance with part 1, the following grounds for acquiring ownership of a virtual asset are established:

- at the time of creation of such an asset;
- execution and execution of a transaction regarding a virtual asset;
- on the basis of the norms of the law;
- on the basis of a court decision.

The moment of creation of a virtual asset is the moment from which the first owner gets the opportunity to own, use and dispose of a virtual asset in the system of ensuring the turnover of the corresponding virtual asset, if it is not possible to reliably establish another moment of creation of the virtual asset, based on the technical features of the system of ensuring the turnover of virtual assets [2 , Article 5]. It is from the moment of creation that the turnover of a virtual asset begins and is carried out.

Mining of any cryptocurrency can be cited as an example of creating a virtual asset. From the moment when an individual or legal entity using its own computing power (for example, mining farms) issued a certain amount of cryptocurrency (as a virtual asset) for its own benefit, ownership of such a virtual asset is considered created.

Ownership of a virtual asset is evidenced by possession of the key of such virtual asset. And it follows from this that the owner of the virtual key is the owner of such a virtual asset.

This interpretation is confirmed by the conclusion of the Higher Anti-Corruption Court of Ukraine in Case No. 991/3721/22. In its Resolution, the Court concludes that ownership of a virtual asset is acquired by the fact of creating a virtual asset, committing and executing a transaction related to a virtual asset, evidenced by possession of the key to such a virtual asset. Therefore, the owner of the virtual asset key (wallet access code and password) is the owner of such virtual asset [38].

Exceptions to this rule are also defined in the Law "On Virtual Assets". The owner of the key of a virtual asset will not be the owner of such an asset if:

1) the key of the virtual asset or the virtual asset is kept by a third party in accordance with the terms of the transaction between the custodian and the owner of this virtual asset;

2) the virtual asset is transferred for safekeeping to any person in accordance with the law or a court decision that has entered into force;

3) the key to the virtual asset was acquired illegally by a person.

Technically, ownership of a virtual asset is carried out using a key and a wallet of a virtual asset, which is a software or software-hardware complex that provides its user with information about virtual assets owned by him and the ability to dispose of them in the system for ensuring the turnover of virtual assets using a key virtual asset.

The law establishes that the disposition of a secured virtual asset will be considered the disposition of the property right to the object of securing this virtual asset. At the same time, it should be borne in mind that during the execution of the transaction regarding the disposition of the secured virtual asset, the Law requires compliance with the established requirements regarding the form or essential conditions of the transaction regarding the disposition of the object of securing the virtual asset.

It is also worth reminding that one of the key restrictions provided for by the Law is the ban on using virtual assets as a means of payment on the territory of Ukraine and exchanging them for property (goods), works (services). Thus, if the transaction related to property (goods), works (services) falls under the scope of regulation of the Law, it will be impossible to carry out calculations using cryptocurrencies.

Of course, providers of services related to virtual assets have the right to provide these services to their respective consumers, clients. Clients are those persons who acquire the corresponding rights to such assets. They have the right to acquire ownership, alienate, exchange virtual assets, dispose of them in any way. Also, the Law "On Virtual Assets" specifies the right of digital assets market participants to independently determine and set the value of virtual assets, based on which transactions with virtual assets are carried out [2, Article 9].

6. Peculiarities of turnover and transactions with virtual assets

Turnover of virtual assets - all legal relations related to virtual assets that arise between participants of the virtual assets market, as well as between them and the state (item 7, item 1, article 1 of Law 2074).

The turnover of secured virtual assets is subject to all restrictions applicable to the turnover of objects of civil rights with which such virtual assets are secured (Clause 1, Article 8 of Law 2074).

At the same time, if the secured virtual asset is secured by an object of civil rights that is under private or public encumbrance, or is secured by an object of civil rights that has been withdrawn from civil circulation, alienation of such virtual asset is not allowed, and any committed the transaction regarding the alienation of such a virtual asset is null and void (item 2 of article 8 of the Law of 2074).

The turnover of a virtual asset begins from the moment of its creation and is carried out until the moment of termination of the turnover of the virtual asset (clause 2 of article 5 of the Law of 2074). At the same time, the turnover on the territory of Ukraine of secured virtual assets secured by currency values is carried out in accordance with the procedure established by the National Bank of Ukraine (item 3 of article 5 of Law 2074).

As for the turnover of secured virtual assets that are not secured by currency values, their turnover in Ukraine is carried out in accordance with the procedure established by the National Securities and Stock Market Commission.

In addition, the person who is entrusted with the obligation for the secured virtual asset, in the event that the objects of civil rights with which it was secured are lost by him or have fallen out of civil circulation for one reason or another, and the possibility of securing a replacement of such a virtual asset is not provided for by the deed on the creation of a corresponding secured virtual asset or by the deed on alienation of such a virtual asset, shall be obliged to ensure the termination of the turnover of such a virtual asset (clause 5, article 5 of Law 2074).

Law 2074 does not apply to legal relations related to the issuance, circulation, storage and redemption of electronic money, as well as to legal relations arising during the emission, circulation, redemption of securities and fulfillment of obligations under them, conclusion and execution of derivative contracts , replacement of parties to derivative contracts and execution of transactions regarding financial instruments on the capital markets, operation of software or software-hardware complexes of electronic data exchange, which ensure the implementation of the specified legal relations regarding financial instruments, as well as relations arising during the conduct of professional activities on the capital markets and organized commodity markets (paragraph 3 of article 2 of the Law of 2074).

Disposition of a secured virtual asset is a disposition of the property right to the object of securing this virtual asset (Clause 1, Article 7 of Law 2074). According to Art. 1107 of the Civil Code of Ukraine, disposal of property rights is carried out on the basis of the following contracts: 1) license to use the object of intellectual property rights; 2) license agreement; 3) an agreement on the creation to order and use of an object of intellectual property rights; 4) agreement on the transfer of exclusive intellectual property rights; 5) another agreement regarding the disposition of property rights of intellectual property. In the event that the law establishes requirements regarding the form or essential conditions of the transaction on the disposition of the object of securing a virtual asset, such requirements are subject to fulfillment also during the execution of the transaction on the disposition of such a virtual asset (Clause 7, Article 6 of Law 2074).

If the secured virtual asset is secured by an object of civil rights that is under private or public encumbrance, or is secured by an object of civil rights that has been removed from civil circulation, the alienation of such virtual asset is not allowed, and any act of alienation of such a virtual asset is worthless (clause 2 of article 8 of the Law of 2074).

7. The market of virtual assets in Ukraine and its participants

Today, the market of virtual assets is in the process of its formation.

The virtual assets market is a set of participants in the virtual assets market and legal relations between them regarding the turnover of virtual assets (item 10 part 1 article 1 of Law 2074).

As noted by O.I. Kulik, for the market of virtual assets as an object of legal regulation, it is necessary to define its essence as a legal category. At the same time, it should be noted that the purpose of legal regulation is to regulate social relations, and the relations regarding the circulation of virtual assets are economic. In view of this, it is necessary to characterize the economic essence of this market [39].

In general, many approaches to defining the concept of "market" have been developed in scientific theory. For example, some economists in the field of marketing consider the market to be one of the economic categories of the commodity economy, which is the sphere of commodity exchange. This approach was also reflected in the explanatory dictionary, where the market is defined as the sphere of commodity exchange [40, p. 536].

At the same time, some of the scientists, including K.V. Maslyaeva, researching the definition of the economic and legal category "market", note that the market is the sphere of economic relations that arise between the subjects of market relations regarding the manufacture and sale of products, the performance of works and the provision of services by agreeing on the price and are regulated by the state [41, p. 7].

In view of all this, it would be more appropriate to apply the following definition for the virtual assets market: the virtual assets market as an object of legal regulation is the sphere of social relations that arise between market participants in the process of

creating and exchanging virtual assets, including intermediaries services and services for the transfer of virtual assets, as well as implementation of state regulation and self-regulation of the virtual assets market.

Participants in the virtual assets market are providers of services related to the turnover of virtual assets, as well as any persons who carry out operations with virtual assets in their own interests (clause 12, part 1, article 1 of Law 2074).

Providers of services related to the turnover of virtual assets are exclusively business entities - legal entities that conduct one or more of the following types of activities in the interests of third parties:

- storage or administration of virtual assets or virtual asset keys;
- exchange of virtual assets;
- transfer of virtual assets;
- provision of intermediary services related to virtual assets (item 8 part 1 article 1 of Law 2074).

The link and the same types of activities are contained in Clause 51 Part 1 of the Law of Ukraine "On Prevention and Counteraction of Legalization (Laundering) of Criminal Proceeds, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction", where it is stated that the service provider, related to the circulation of virtual assets, is any natural or legal entity that conducts one or more of such activities and/or operations for or on behalf of another natural and/or legal entity.

And based on this definition, service providers related to virtual assets can include currency institutions and crypto exchanges that exchange cryptocurrency for fiat currency.

As we can see, the Law does not specify other participants in the virtual assets market than providers of services related to the turnover of virtual assets. But, as an example by analogy, we can cite the Law "On Capital Markets and Organized Commodity Markets", where stock market participants are defined as: issuers, including foreign ones, or persons who have issued non-issued securities, persons who provide security, investors in financial instruments that have acquired ownership rights

to securities, administrators, professional participants of capital markets, persons who conduct activities related to capital markets and organized commodity markets, associations of professional participants of capital markets [13, part 2 of article 4 .].

According to the opinion of some scientists, cryptocurrency market participants should include: 1) users of cryptocurrency 2) issuers of cryptocurrency, in particular those engaged in forging and ICO (Initial Coin Offering) and miners; 3) performers of ensuring the functioning of cryptocurrencies, which include exchanges, online and offline exchangers, issuers and miners of cryptocurrencies; 4) regulators, that is, interested state bodies, in particular the National Bank of Ukraine, the Ministry of Finance, the State Fiscal Service, the National Commission for Regulation of Financial Services Markets, the National Securities and Stock Market Commission, the State Financial Monitoring Service, the Ministry of Economic Development and trade [42, c. 1003].

These approaches have a common position regarding the classification of issuers (including miners) as market participants. At the same time, the Law of Ukraine "On Capital Markets and Organized Commodity Markets" includes self-regulatory organizations as participants, and scientists include state regulators as participants. Therefore, for the purposes of specifying the infrastructure elements of the virtual assets market, it seems necessary to analyze issuers, as well as regulators: both state bodies and self-regulated organizations [43].

The Law "On Capital Markets and Organized Commodity Markets" in Art. 4 explains these concepts as follows: the issuer is a legal entity, a territorial community in the form of a representative body of local self-government, the state in the form of state authorities authorized by it, an international financial organization, which on its behalf places emission securities and undertakes obligations for such securities before their owners.

At the same time, Law 2074 itself does not provide us with a definition of the issuer.

The next type of virtual assets market participants are self-regulatory organizations of professional capital market participants. Such organizations are

associations of professional capital market participants that meet the requirements established by the National Securities and Stock Market Commission.

Another type of participants are professional capital market participants. These are legal entities operating in the organizational and legal form of a joint-stock company, a limited liability company or a company with additional liability, which conduct professional activities on the capital markets, the types of which are defined by law. The Central Securities Depository has the status of a professional capital market participant.

Regarding the restrictions on persons who cannot be a professional participant in the capital markets, such a participant cannot be a legal entity that meets at least one of the following criteria:

1) the legal entity is created in accordance with the legislation of the state carrying out armed aggression against Ukraine in the sense given in Article 1 of the Law of Ukraine "On the Defense of Ukraine";

2) sanctions have been applied to the legal entity in accordance with the Law of Ukraine "On Sanctions";

3) the legal entity is included in the list of persons connected with the conduct of terrorist activities or in respect of whom international sanctions have been applied;

4) the legal entity is under the control of the persons specified in clauses 1-3 of this part, or has such persons among the owners of significant participation;

5) the legal entity does not meet the requirements established by law for professional capital market participants.

In fact, part 3 of Article 9 of Law 2074 contains the same prohibitions on the activities of service providers related to virtual assets. In particular, it is determined that: a provider of services related to the turnover of virtual assets cannot be a legal entity:

1) which is registered in accordance with the legislation of a state recognized by the Verkhovna Rada of Ukraine as an occupying state or an aggressor state;

2) which is located on the territory of a state recognized by the Verkhovna Rada of Ukraine as an occupying state or an aggressor state;

3) managers, chief accountant, owners of significant participation and ultimate beneficial owners of which are citizens of a state recognized by the Verkhovna Rada of Ukraine as an occupying state or an aggressor state;

4) who is a person who is directly or indirectly controlled within the meaning of Article 1 of the Law of Ukraine "On Protection of Economic Competition" by residents of a foreign state recognized by the Verkhovna Rada of Ukraine as an occupying state or an aggressor state, or acts in their interests;

5) the ultimate beneficial owners of which are residents of a foreign state recognized by the Verkhovna Rada of Ukraine as an occupying state or an aggressor state;

6) participants (shareholders) of which are the ultimate beneficial owners of a resident of a foreign state recognized by the Verkhovna Rada of Ukraine as an occupying state or an aggressor state;

7) who owns directly or indirectly (through another natural or legal entity) any share of a resident of a foreign state, a state recognized by the Verkhovna Rada of Ukraine as an occupying state or an aggressor state;

8) has among its participants (founders, shareholders) legal entities registered in states (jurisdictions) that do not implement or improperly implement the recommendations of international, intergovernmental organizations involved in the fight against legalization (laundering) of criminally obtained income or financing terrorism or financing the proliferation of weapons of mass destruction.

In part 5, 6 of Art. 9 of Law 2074 clearly defines legal entities that can provide services related to the turnover of virtual assets, in particular:

- managers, chief accountant, owners of significant participation and ultimate beneficial owners of which have an impeccable business reputation;

- which has formed authorized capital in the amount established by this Law and can confirm the legality of receiving funds that were directed to the formation of authorized capital of a legal entity;

- which meets other requirements established by this Law.

the service provider can be a foreign legal entity that is a participant in the virtual assets market, under the law of a foreign state, conducts activities as a service provider in the manner and under the conditions determined by the National Commission for Securities and the Stock Market, taking into account the requirements and restrictions determined by this Law.

In addition, in part 7 of Art. 9 of Law 2074 specifies the limitation of the circle of persons who have the right to provide services related to the turnover of secured virtual assets - currency values. Only financial institutions can provide such services.

The legal definition of financial institutions is contained in the Law of Ukraine "On Financial Services and Financial Campaigns", which was adopted on February 14, 2021, and which will enter into force on January 1, 2024 [15]. According to the said Law: a financial institution is a legal entity, the purpose of which is to provide financial services, which, in accordance with the law, provides one or more financial services on the basis of an appropriate license issued by the Regulator. Providers of accompanying services who do not also provide financial services at the same time, as well as other persons who received a license to provide financial services without acquiring the status of a financial institution, are not financial institutions.

Acquiring the status of a financial institution takes place on the basis of the Resolution of the National Bank of Ukraine "On approval of the Regulation on licensing and registration of financial service providers and the conditions for their activities in the provision of financial services" dated 12.24.2021 No. 153 [44]. The provisions in section I establish a comprehensive list of requirements for conducting financial services activities.

In Part 1 of Art. 9 of the Law of Ukraine "On Currency and Currency Valuables" defines obligations for providers of services related to the turnover of virtual assets, which are non-banking financial institutions, provide financial services related to the turnover of secured virtual assets, certifying the rights to currency of value to carry out such operations on the basis of a license to carry out currency operations.

8. Storage, exchange and transfer services in the market of virtual assets

The national legislation discloses the circulation of virtual assets in Art. 10-12 of Law 2074. In particular, the list of services that can be provided by participants in the virtual assets market is defined there.

The Civil Code of Ukraine considers services as an independent object of civil law, which is a strong argument that confirms the right of a contract for the provision of services to exist [45].

The legislator uses the concept of "service" in a whole series of both legislative and subordinate regulatory legal acts. At the same time, despite the use of the concept of "service" in many current normative acts, none of them, including the Civil Code of Ukraine, provide its single definition. Only the understanding of service as an action that brings benefits is sustainable. Distinguishing them from "works" is essential for the correct understanding of "services" as an object of civil rights.

According to the Law of Ukraine "On Financial Services and Financial Companies" - a financial service - an operation or several operations related to the same legal purpose, with financial means, carried out in the interests of persons other than the provider of such a financial service, as well as services, directly defined by special laws as financial services [15, Article 1].

As for the market of virtual assets, the legislator gives the following list of such services: storage, exchange and transfer, separating intermediary services into a separate article.

The implementation of the specified types of activities requires prior obtaining of a permit, the authority to issue which is entrusted to the National Securities and Stock Market Commission. To obtain a permit, the applicant must meet a number of strict criteria and pay a fee for its issuance. The National Commission for Securities and the Stock Market is also authorized to establish the Procedure for issuing, refusing to issue, reissuing, canceling the permit for the provision of services related to the turnover of virtual assets.

Also, in accordance with Law 2074, a number of requirements are set for such persons who plan to conduct the activity of a provider of services related to the turnover

of virtual assets in order to obtain a permit to provide services related to the turnover of virtual assets:

1) The application for the issuance of a permit to provide services related to the turnover of virtual assets must necessarily contain information about the applicant, such as: the full name of the legal entity, the code of the legal entity in the Unified State Register of Legal Entities, Individuals - Entrepreneurs and Public formations, location, postal address, numbers of means of communication, e-mail address, which is the official communication channel;

2) The application must specify the activities of the service provider related to the turnover of virtual assets, which the applicant intends to carry out;

3) A description of the ownership structure of such a legal entity must be attached to the application (a documented system of relationships between individuals and legal entities, trusts, other similar legal entities, which makes it possible to establish all ultimate beneficial owners (BBOs), including control relationships between them, or the absence of ultimate beneficial owners according to Clause 58, Part 1, Article 1 of the Law "On Prevention and Countermeasures to Legalization (Laundering) of Criminal Proceeds, Financing of Terrorism, and Financing of Proliferation of Weapons of Mass Destruction" [9].

The ultimate beneficial owner for legal entities is any natural person who exerts a decisive influence on the activities of the legal entity (including through the chain of control/ownership) [9, clause 30, part 1, article 1]. Direct ownership by a natural person of a share of at least 25 percent of the authorized (compounded) capital or voting rights of a legal entity is a sign of direct decisive influence on the activity.

Signs of exercising indirect decisive influence on the activity are at least ownership by a natural person of a share of at least 25 percent of the authorized (composite) capital or voting rights of a legal entity through related natural or legal persons, trusts or other similar legal entities, or exercising decisive influence through exercising the right to control, own, use or dispose of all assets or their share, the right to receive income from the activities of a legal entity, trust or other similar legal entity, the right to have a decisive influence on the formation of the composition, the voting

results of management bodies, as well as the execution of transactions that give the opportunity determine the basic conditions of the economic activity of a legal entity, or the activity of a trust or other similar legal entity, make binding decisions that have a decisive impact on the activity of a legal entity, trust or other similar legal entity, regardless of formal ownership.

At the same time, the final beneficial owner cannot be a person who has a formal right to 25 or more percent of the authorized capital or voting rights in a legal entity, but is a commercial agent, nominal owner or nominal holder, or only an intermediary in relation to such a right [9, p. 30 part 1 of article 1].

4) The application must be accompanied by documents confirming the sources of origin of the funds used for the formation of the authorized capital and the actual contribution of funds for its formation;

The acts on the basis of which money and property were received must not in any way violate the law or contradict it. Such agreements must not have signs of fictitiousness or pretense. All relevant taxes and fees provided for by current legislation must be paid from such income.

5) The documents submitted with the application must contain information on:

- business reputation of the ultimate beneficial owners;

- owners of a significant participation of the applicant (identification data of such persons, their business reputation, percentage of authorized capital or voting rights held by each such participant (shareholder) in the applicant);

According to Clause 4 of Article 1 of Law 2074, significant participation is direct or indirect, independent or joint ownership of 10 or more percent of the authorized (composite) capital or voting rights of purchased shares (shares) of a legal entity, or independent of formal ownership the possibility of significant influence on the management or activity of a legal entity.

Similar definitions of the concept of "substantial participation" are contained in other normative legal acts. In particular, in the Law of Ukraine "On Banks and Banking Activities". Substantial participation - direct and/or indirect ownership by one person independently or jointly with other persons of 10 or more percent of the authorized

capital and/or voting rights of shares, shares of a legal entity, or the possibility of significant influence on the management or activities of a legal entity independent of formal ownership. A person is recognized as the owner of an indirect substantial participation, regardless of whether such a person exercises control over the direct owner of participation in a legal entity or controls any other person in the chain of ownership of corporate rights of such a legal entity [10, Article 2].

In the Law of Ukraine "On Prevention and Combating the Legalization (Laundering) of Criminal Proceeds, the Financing of Terrorism and the Financing of the Proliferation of Weapons of Mass Destruction", direct or indirect ownership by one person alone or jointly with other persons of a share of 10 percent or more of the statutory capital or voting rights in a legal entity or independent of formal ownership, the possibility of significant influence on the management or activity of a legal entity [9, clause 29 of article 1].

- identification data, business reputation and professional experience of the applicant's managers, business reputation of the applicant;

- identification data, professional experience and impeccable business reputation of the founders of the applicant, the chairman and members of the collegial executive body (a person exercising the powers of a sole executive body), the chairman and members of the supervisory board (if any) of such a legal entity;

6) Along with the application, the applicant's internal documents regulating the conduct of the relevant type of activity of the provider of services related to the turnover of virtual assets must be submitted.

7) Also, together with the application and documents, a copy of the payment document confirming the payment of the fee for issuing a permit for the provision of services related to the turnover of virtual assets is submitted.

Submission of the relevant application for obtaining, reissuing, or canceling a permit for the provision of services related to the turnover of virtual assets and relevant documents, as well as obtaining a permit, can be done both in paper and electronic form through the Unified State Web -portal.

In the event that the documents that were submitted for the issuance of a permit for the provision of services related to the turnover of virtual assets contain incomplete and/or mutually exclusive and/or inaccurate information and/or do not meet the requirements of the law; or a person who intends to conduct the activities of a provider of services related to the turnover of virtual assets does not meet the requirements of Law 2074 - the National Securities and Stock Market Commission has the right to refuse to issue a permit for the provision of services related to the turnover of virtual assets . Such a refusal must necessarily be motivated, specifying the specific reason and basis for the refusal. The fee for issuing a permit for the provision of services related to the turnover of virtual assets, in case of refusal, is subject to return to the applicant upon his application.

The decision to issue or refuse to issue a permit is made within six months from the date of receipt of the application and the documents attached to it, stipulated by the license conditions. If there are no foreign legal entities in the ownership structure of the applicant's legal entity, such a period is three months [46, clause 3, section III].

In case of refusal to issue a permit, the applicant may submit a new application for the issuance of a permit and relevant documents to the National Commission for Securities and the Stock Market after eliminating the reasons that became the basis for the refusal to issue a license. If, on the other hand, the refusal to issue a permit was granted on the basis of the discovery of unreliable data in the documents submitted by the applicant for the issuance of a permit, the applicant may submit a new application for the issuance of a license no earlier than one year from the date of the decision on the refusal to issue a license [46, p. 8.9 of Chapter III].

In the event of a change in any information and any information submitted for state registration, providers of services related to the turnover of virtual assets are obliged to notify the National Securities and Stock Market Commission of such changes within 10 working days from occurrence of changes in the procedure established by the National Securities and Stock Market Commission.

If the provider of services related to the turnover of virtual assets is a bank that has the right to provide services related to the turnover of secured virtual assets -

currency values - then such a provider has the right to provide such services on the basis of a banking license and permission to provide services, related to the turnover of virtual assets. For providers of services related to the turnover of secured virtual assets - currency values, which is not a banking financial institution, such a provider has the right to provide services related to the turnover of such virtual assets on the condition of obtaining a license of the National Bank of Ukraine to carry out currency operations and permission to provide services related to the turnover of virtual assets [2, item 16, article 19].

Business entities are allowed to conduct more than one type of activity of a provider of services related to the turnover of virtual assets, subject to obtaining a permit for the provision of each relevant type of services related to the turnover of virtual assets (paragraph 3 of Article 18 of Law 2074).

The services of storage or administration of virtual assets or keys of virtual assets are the provision of safekeeping of virtual assets or keys of virtual assets with the possibility of independently moving such virtual assets in the interests and on behalf of third parties. The provider of services for the storage or administration of virtual assets or keys to virtual assets moves such virtual assets only on the condition that such movement is carried out in accordance with the instructions of the owner of the virtual asset and is expressly provided for in the relevant contract with the owner of the virtual asset regarding its storage or administration (Part 1 of Article .10 of Law 2074).

In fact, services for the storage or administration of virtual assets or keys to virtual assets are: ensuring the preservation of virtual assets or keys to virtual assets with the ability to independently move such virtual assets in the interests and on behalf of third parties.

The legislator also establishes the minimum amount of authorized capital for legal entities engaged in the provision of services for the storage or administration of virtual assets.

For residents of Ukraine - providers of services for the storage or administration of virtual assets or keys to virtual assets, the minimum amount of authorized capital must be at least 70 thousand tax-free minimum incomes of citizens, or 1,190,000 UAH.

For non-residents - providers of services for the storage or administration of virtual assets or keys to virtual assets, the minimum amount of the authorized capital must be at least 350 thousand tax-free minimum incomes of citizens. We note that the tax-free minimum income of citizens in accordance with the tax legislation of Ukraine is UAH 17, thus the minimum authorized capital for a legal entity that plans to engage in the provision of services for the storage or administration of virtual assets will be UAH 5,950,000.

The activities of service providers related to the turnover of virtual assets are carried out on the condition that they have previously obtained permission to provide services related to the turnover of virtual assets. The granting of permission for the provision of services related to the turnover of virtual assets is carried out on a paid basis (Part 1 of Article 19 of Law 2074).

Business entities are allowed to conduct more than one type of activity of a provider of services related to the turnover of virtual assets, subject to obtaining a permit for the provision of each relevant type of services related to the turnover of virtual assets (Part 3, Article 18 of Law 2074). That is, depending on the number of types of range allowed for such business entities - participants in the virtual assets market, for each of the permitted types of activity, such as storage or administration, exchange, transfer - it will be necessary to obtain a corresponding permit for each separate such activity .

The fee for issuing a permit to provide services related to the issuance of a permit to store or administer virtual assets or virtual asset keys to a resident legal entity will amount to 8,000 minimum citizen incomes, or UAH 136,000. The fee for obtaining the same permit for a non-resident legal entity will already amount to forty thousand tax-free minimum incomes of citizens, or UAH 680,000.

If the activity being carried out does not allow the custodian to independently carry out the transfer of such virtual assets in the interests and on behalf of third parties, such activity is not considered the storage or administration of virtual assets or virtual asset keys.

The provisions of the Civil Code of Ukraine on storage contracts, taking into account the specifics established by this Law, apply to contracts for the provision of services for the storage or administration of virtual assets or keys to virtual assets (paragraph 3 of Article 10 of Law 2074).

A storage contract is an agreement between two parties, according to which one party (the custodian) undertakes to keep the thing transferred to it by the other party (the bailor) and to return it to the latter intact. Such a contract is public if the storage of things is carried out by the subject of entrepreneurial activity in warehouses (in cells, premises) for public use.

The custody agreement, in which the custodian is a person carrying out storage on the basis of entrepreneurial activity (professional custodian), may establish the custodian's duty to keep the thing that will be transferred to the custodian in the future [14, 936].

Taking into account the fact that the providers of storage and administration services in accordance with Law 2074 must be legal entities, the requirements of Article 208 of the Civil Code of Ukraine will be applied to the storage contract, in particular, such a contract must be concluded in writing. In addition, in accordance with Part 1 of Article 937 of the Civil Code of Ukraine, if the acceptance of the item for storage was certified by a receipt, receipt or other document signed by the custodian, the written form of such an agreement is considered to have been complied with.

Virtual asset exchange services are activities related to the exchange of virtual assets for other virtual assets and currency values, which is carried out for third parties and/or on behalf of and in the interests of third parties (Part 1, Article 11 of Law 2074). In fact, such services are activities related to the exchange of virtual assets for other virtual assets, money and currency values on behalf of and in the interests of third parties.

Similarly to the requirements for the provision of storage and administration services, the legislator establishes the minimum amount of authorized capital for legal entities engaged in the provision of services for the exchange of virtual assets. For

residents of Ukraine - providers of services for the exchange of virtual assets, the minimum amount of authorized capital must be at least 35 thousand tax-free minimum incomes of citizens, or 595,000 UAH. For non-residents - providers of services for the exchange of virtual assets, the minimum amount of authorized capital must be at least 175 thousand tax-free minimum incomes of citizens, or UAH 2,975,000.

In the same way as for the provision of services for the storage and administration of virtual assets, for persons who plan to provide services for the exchange of virtual assets, an obligation to obtain the appropriate permit is established. The amount of the fee for issuing a permit for the provision of services related to the activity of exchanging virtual assets for residents is set at five thousand tax-free minimum incomes of citizens, i.e. UAH 85,000. Obtaining a similar permit for a non-resident legal entity that plans to carry out activities related to the exchange of virtual assets on the territory of Ukraine will already amount to twenty-five thousand tax-free minimum incomes of citizens - that is, UAH 425,000.

Also, Law 2074 sets restrictions for such virtual asset exchange service providers regarding the fact that they have the right to provide virtual asset exchange services exclusively for other virtual assets or for the national currency (hryvnia), and in cases determined by the National Bank of Ukraine - to other currency values. Currently, there are no separate provisions in national legislation regarding the exchange of virtual assets for national currency or other currency values.

Virtual asset transfer services in accordance with Law 2074 are the transfer of virtual assets in the interests of third parties from the wallet of virtual assets of third parties to the wallet of virtual assets of other persons.

The size of the authorized capital for residents of Ukraine to provide this type of services in the field of virtual assets in accordance with Law 2074 must be at least 35 thousand non-taxable minimum incomes of citizens, or 595,000 UAH. For non-residents, the minimum size of the authorized capital will already be at least 175,000 tax-free minimum incomes of citizens, i.e. 2,975,000 UAH.

The fee for obtaining a permit for carrying out activities related to the transfer of virtual assets will be: for residents - five thousand tax-free minimum incomes of

citizens; for non-residents - twenty-five thousand non-taxable minimum incomes of citizens (85,000 and 425,000 UAH, respectively).

In addition, Law 2074 states that providing a virtual asset transfer service is not considered to be any related activity related to the provision of the process or part of the transfer process, if the provider of such services cannot directly influence, make decisions and control the implementation of the transfer of virtual assets assets Therefore, such related activities will not be regulated by the provisions of Part 2 of Art. 12 of the said Law.

Law 2074 defines participants who provide intermediary services related to virtual assets as a separate, fourth, type of participants in the digital asset market. The law refers to such intermediary services, in particular, the execution of transactions regarding virtual assets (including the implementation of a public offering of virtual assets) in the interests of third parties.

Mediation is considered the action of one person, aimed at reaching an agreement between two other parties to a legal relationship, regarding their entry into the same legal relationship. In other words, mediation is helping someone to enter into a legal relationship, to conclude an appropriate contract.

In the national legislation, activity in the field of mediation is regulated by a number of normative legal acts, in particular, the Economic Code of Ukraine. According to Part 3 of Article 263 of the Commercial Code of Ukraine, commercial mediation in the implementation of commercial activities is a commercial activity. And in accordance with Art. 295 of the Commercial Code of Ukraine, commercial mediation refers to types of economic activity, and is also considered agency activity.

The implementation of such commercial mediation consists in the provision of services by a commercial agent to economic entities when they carry out economic activities through mediation on behalf of, in the interests of, under the control and at the expense of the entity that he represents. A commercial agent for the purposes established by the Civil Code of Ukraine can be a business entity (citizen or legal entity) who, under the authority based on an agency contract, carries out commercial mediation. However, commercial agents cannot be considered business entities -

entrepreneurs who act in their own name, albeit in the interests of others. In addition, the Law determines that a commercial agent cannot enter into an agreement in relation to himself personally, but on behalf of the person he represents. Restrictions or bans on commercial mediation in certain business sectors may also be established.

The grounds for the emergence of such agency relations are defined in Article 296 of the Economic Code of Ukraine. Such grounds are the granting of powers by the business entity on the basis of the contract to the commercial agent to perform relevant actions; and approval by a business entity represented by a commercial agent of an agreement concluded in the interests of this entity by the agent without the authority to conclude it or in excess of the authority granted to him.

The conditions for concluding such an agency agreement are mandatory in writing; the form of confirmation of the powers (representation) of the commercial agent must be determined. Such a contract must define the scope, nature and procedure of the commercial agent's performance of mediation services, the rights and obligations of the parties, the terms and amount of remuneration to the commercial agent, the term of the contract, sanctions in case of breach by the parties of the terms of the contract, other necessary conditions determined by the parties, and there must also be a condition regarding the territory within which the commercial agent carries out activities determined by the agreement of the parties. If the territory of such an agent is not specified in the contract, it is considered that the agent operates within the territory of Ukraine.

Such a commercial agent will receive an agency fee for intermediary operations carried out by him in the interests of the entity he represents, in the amount stipulated by the contract.

The next type of mediation, which is defined in the Economic Code of Ukraine, is financial mediation. According to Article 333 of the Economic Code of Ukraine, the finances of business entities are recognized as an independent link of the national financial and credit system with an individual circulation of funds, which ensures the coverage of production costs (works, services) and the receipt of profit. Accordingly, financial intermediation for the purposes of the Law is considered to be an activity

related to the receipt and redistribution of financial funds, except for cases provided for by law. Banks and other financial and credit organizations are recognized as authorized persons who carry out such financial intermediation. Banks, moreover, are obliged to carry out such financial intermediation in the form of banking transactions.

In general, intermediation is considered to be an activity that reduces the owner's risks, and therefore should be economically attractive for owners in this activity.

For participants in the virtual assets market who provide intermediary services, as well as for those participants who provide other types of activities in the field of virtual assets, Law 2074 establishes requirements for the minimum size of the authorized capital: at least 35 thousand tax-free minimum incomes of citizens (595,000 UAH) for resident participants, and at least 175 thousand tax-free minimum incomes of citizens (2,975,000 UAH) for non-resident participants.

In the same way as for other professional participants in the virtual assets market, participants who provide intermediary services in the field of virtual assets circulation are required by national legislation to obtain an appropriate permit for the provision of such services. The amount of the fee for issuing a permit to provide intermediary services related to the turnover of virtual assets for residents is four thousand non-taxable minimum incomes of citizens (68,000 UAH), and the amount of fee for obtaining the same permit for a non-resident participant will amount to twenty thousand non-taxable minimums income of citizens (425,000 UAH).

References:

1. Novytsky V.Ya., Fitsa V.M. Formation and development of legal regulation of circulation of virtual assets. INFORMATION AND LAW. No. 4(39)/2021. - with. 179-186.

2. About virtual assets. Law of Ukraine dated February 17, 2022 No. 2074-IX. URL: https://zakon.rada.gov.ua/laws/show/2074-20#Text (date of application 08.11.2022)

3. Draft Law on Amendments to the Tax Code of Ukraine on Taxation of Transactions with Virtual Assets No. 7150 dated March 13, 2022. URL: https://itd.rada.gov.ua/billInfo/Bills/Card/39211 (application date 08.11.2022)

4. Clarification regarding the legality of using the "virtual currency/cryptocurrency" Bitcoin in Ukraine. National Bank; Clarification dated November 10, 2014. URL: https://zakon.rada.gov.ua/laws/show/n0435500-14#Text (date of application 08.11.2022)

5. Regarding the classification of operations with "virtual currency/cryptocurrency "Bitcoin" as foreign currency trade operations, as well as the existence of grounds for [...]. Letter of the National Bank of Ukraine dated 08.12.2014 No. 29-208/72889. URL: https ://zakon.rada.gov.ua/laws/show/v2889500-14#Text (date of application 08.11.2022) the document has become invalid

6. About the National Bank of Ukraine. Law of Ukraine dated 05/20/1999 No. 679-XIV. URL: https://zakon.rada.gov.ua/laws/show/679-14#Text (date of application 08.11.2022)

7. Draft Law on the Circulation of Cryptocurrency in Ukraine. No. 7183 dated 06.10.2017. URL: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62684 (date of application 08.11.2022)

8. Draft Law on stimulation of the market of cryptocurrencies and their derivatives in Ukraine No. 7183-1 dated 10.10.2017. URL: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=62710 (date of application 08.11.2022)

9. On the prevention and countermeasures against the legalization (laundering) of criminal proceeds, the financing of terrorism, and the financing of the proliferation of weapons of mass destruction. Law of Ukraine dated 06.12.2019 No. 361-IX. URL: https://zakon.rada.gov.ua/laws/show/361-20#Text (date of application 08.11.2022)

10. About banks and banking activities. Law of Ukraine dated 07.12.2000 No. 2121-III. URL: https://zakon.rada.gov.ua/laws/show/2121-14#Text (date of application 08.11.2022)

11. About financial services and state regulation of financial services markets. Law of Ukraine dated July 12, 2001 No. 2664-III. URL: https://zakon.rada.gov.ua/laws/show/2664-14#Text (date of application 08.11.2022)

12. About currency and currency transactions. Law of Ukraine dated 21.06.2018 No. 2473-VIII. URL: https://zakon.rada.gov.ua/laws/show/2473-19#Text (date of application 08.11.2022)

13. About capital markets and organized commodity markets. Law of Ukraine dated February 23, 2006 No. 3480-IV. URL: https://zakon.rada.gov.ua/laws/show/3480-15#Text (date of application 08.11.2022)

14. Civil Code of Ukraine. Code of Ukraine; Law, Code dated 16.01.2003 No. 435-IV. URL: https://zakon.rada.gov.ua/laws/show/996-14#Text (date of application 08.11.2022)

15. About financial services and financial companies. Law of Ukraine dated 14.12.2021 No. 1953-IX. URL: https://zakon.rada.gov.ua/laws/show/1953-20#Text (date of application 08.11.2022)

16. On the approval of the Regulation on operations with currency values. Resolution of the National Bank of Ukraine; Regulation No. 2 dated January 2, 2019. URL: https://zakon.rada.gov.ua/laws/show/v0002500-19#Text (date of application November 8, 2022)

17. Kud, A. (2019). Justification of the concept of "digital asset": economic and legal aspect. International Journal of Education and Science. URL: https://www.virtualassettest.org/wp-content/uploads/2019/11/obosnovanie-ponyatiya-cifrovoj-aktiv-ehkonomiko-pravovoj-aspekt_ua.pdf

18. About accounting and financial reporting in Ukraine. Law of Ukraine dated 16.07.1999 No. 996-XIV. URL: https://zakon.rada.gov.ua/laws/show/996-14#Text date of application 11/08/2022)

19. About payment services. Law of Ukraine dated 30.06.2021 No. 1591-IX. URL: https://zakon.rada.gov.ua/laws/show/1591-20#n924 (date of application 08.11.2022)

20. Advice on Initial Coin Offerings and Cryp to Assets. European Securities and Markets Authority, ESMA. 9 January 2019. URL: https://www.esma.europa.eu/sites/default/files/library/esma50-157-1391_crypto_advice.pdf

21. Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing Directive 2007/64/EC (Text with EEA relevance). URL: https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32015L2366 (access date 08.11.2022)

22. Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (Text with EEA relevance). URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009L0110&qid=1664116131041 (access date 08.11.2022)

23. 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 (Text with EEA relevance). URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L0843&qid=1664035656083 (access date 08.11.2022)

24. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) Text with EEA relevance. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0065&qid=1664119526852 (access date 08.11.2022)

25. REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL (EU) 2016/679 of April 27, 2016 on the protection of natural persons in connection with the processing of personal data and on the free movement of such data, and on the repeal of Directive 95/46/EC (General Data Protection Regulation). European Union; Regulation, International document dated 04/27/2016 No. 2016/679. URL: https://zakon.rada.gov.ua/laws/show/984_008-16#Text (date of application 08.11.2022)

26. Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No. 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance). URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015L0849&qid=1664111172166 (access date 08.11.2022)

27. MULTILATERAL CONVENTION on the implementation of measures relating to taxation agreements with the aim of combating the erosion of the tax base and the removal of profits from taxation. Convention; International document; Reservation; Message dated November 24, 2016. ratified with reservations and notices by Law No. 2692-VIII dated 28.02.2019. URL: https://zakon.rada.gov.ua/laws/show/376_001-16#Text (date of application 08.11.2022)

28. Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing Directive 2007/64/EC (Text with EEA relevance). URL: https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32015L2366 (access date 08.11.2022)

29. Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (Text with EEA relevance). URL: https://eur-lex.europa.eu/legal-

content/EN/TXT/?uri=CELEX%3A32009L0110&qid=1664116131041 (access date 08.11.2022)

31. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L1937&qid=1664116316294 (access date 08.11.2022)

32. On the approval of the National regulation (standard) of accounting. Ministry of Finance of Ukraine; Order, Regulation dated 18.10.1999 No. 242. URL: https://zakon.rada.gov.ua/laws/show/z0750-99#Text (date of application 08.11.2022)

33. Tax Code of Ukraine. Code of Ukraine; Law, Code dated 02.12.2010 No. 2755-VI. URL: https://zakon.rada.gov.ua/laws/show/2755-17#Text (date of application 08.11.2022)

34. International Accounting Standard 38 (IAS 38). Intangible assets. IASB; Standard, International document dated 01.01.2012. URL: https://zakon.rada.gov.ua/laws/show/929_050#Text (date of application 08.11.2022)

35. Nagnybida V.I. Implementation of the provisions of the legislation on virtual assets in the light of the digitalization policy // Law. No. 5/2021. pp. 45-52. URL: file:///Users/s.glushenko/Downloads/1944-Article%20Text-3509-1-10-20211106.pdf

36. S. O. Hrytsai. LEGAL REGIME OF VIRTUAL ASSETS IN UKRAINE // Juris Europensis Scientia. Issue 2, 2022. c.-65-68. URL: http://jes.nuoua.od.ua/archive/2_2022/15.pdf

37. Universal declaration of human rights. UN; Declaration, International document dated 10.12.1948. URL: https://zakon.rada.gov.ua/laws/show/995_015#Text (date of application: 08.11.2022).

38. Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms. Council of Europe; Protocol, International document of March 20, 1952. URL: https://zakon.rada.gov.ua/laws/show/994_535#Text (date of application: 08.11.2022).

39. Decision in case No. 991/3721/22 (Proceedings 1-ks/991/3738/22) [2022] Higher Anti-Corruption Court of Ukraine. Unified state register of court decisions. https://reyestr.court.gov.ua/Review/106662256 (2022, October 04).

41. Kulyk O.I. THE MARKET OF VIRTUAL ASSETS AS AN OBJECT OF LEGAL REGULATION // Forum Prava, 2020. 63(4). - pp. 56–63. URL: http://forumprava.pp.ua/files/056-063-2020-4-FP-Kulyk_8.pdf

42. Bilodid, I. K. (Ed.). (1970–1980). Slovnyk ukrayinskoyi movy [Dictionary of the Ukrainian language]. Kyiv: Nauk. dumka, T. 8. http://ukrlit.org/slovnyk/slovnyk_ukrainskoi_movy_v_11_tomakh (in Ukr.).

43. Maslyaeva K.V. Economic and legal support for the functioning of the financial services market in Ukraine: autoref. thesis ... candidate law Sciences: 12.00.04. Kh., 2009. 20 p.

44. Kulyk O.I. INFRASTRUCTURE OF THE VIRTUAL ASSETS MARKET // Scientific Bulletin of the Uzhhorod National University, 2021. Law series. Issue 63. c. 183-189. URL: http://visnyk-pravo.uzhnu.edu.ua/article/view/232249/231061

45. Duchenko M.M., Pavlenko T.V. The influence of cryptocurrencies on the country's economy. Economy and society. No. 19. 2018. URL: http://economyandsociety.in.ua/journals/19_ukr/150.pdf

46. On the approval of the Regulation on licensing and registration of financial service providers and the conditions for their activities in the provision of financial services. Resolution of the National Bank of Ukraine; Provisions, Standard document form, Card, List, Information, Criteria, Extract, Statement, Requirements, Notice dated 12.24.2021 No. 153. URL: https://zakon.rada.gov.ua/laws/show/v0153500-21# n198 (date of appeal: 08.11.2022).

47. Scientific and practical commentary on the Civil Code of Ukraine in 2 volumes / Dzera O. V., Kuznetsova N. S., Luts V. V. Volume 2. - K.: Yurinkom-inter, 2019. 1048 p.

48. On the approval of the Procedure for issuing, suspending and canceling the license for conducting professional activities on the capital markets. NCCPFR; Decision, Order, Application dated 10/21/2021 No. 982. URL: https://zakon.rada.gov.ua/laws/show/z1563-21 (date of application: 11/08/2022).