ISSN 2786-491X, e-ISSN 3083-7472

Philosophy, Economics and Law Review

Vol. 5. No. 2. 2025
Received: 28.03.2025
Revised: 26.10.2025
Accepted: 27.11.2025
Published: 26.12.2025

Journal homepage: https://phelr.com.ua/en

UDC 347.77:004.738.5

DOI: 10.63341/2786-491X-2025-2-46

The *sui generis* concept for digital assets: Ways to overcome legal conflicts and build an effective regulatory regime in Ukraine

Bohdan Shuliaka*

Postgraduate Student
European University
03115, 16V Akademik Vernadskyi Blvd., Kyiv, Ukraine
https://orcid.org/0009-0006-2895-705X

Abstract. This study aimed to develop a comprehensive model for reforming Ukrainian legislation on digital assets. The research methodology was based on doctrinal analysis and the formal legal method. These methods were applied to examine sources including the national legislation of Ukraine, key regulatory and strategic documents of leading international jurisdictions, as well as analytical reports produced by international organisations. The main results confirmed the existence of a profound conceptual crisis in Ukraine, caused by the inconsistency between the category of a "digital thing" and the intangible nature of digital assets. It has been established that this legal fiction leads to systemic legislative contradictions, the invalidity of the relevant law, and the practical impossibility of applying traditional property-law (vindication, negation) and procedural (arrest, foreclosure, inheritance) mechanisms for the protection of rights. This situation creates a legal vacuum and generates risks for users, particularly against the background of low levels of digital financial literacy among adults. A three-level model for reforming the legal regulation of digital assets was proposed. At the doctrinal level, a revision of fundamental civil-law categories was envisaged in order to distinguish digital assets as an independent type of intangible goods that are not subject to traditional property-law structures. At the substantive level, a rethinking of the content of special legislation was proposed through a transition to a functional classification of digital assets. At the procedural level, the development of special mechanisms for the investigation, arrest, foreclosure, transfer, and inheritance of digital assets was proposed, taking into account their intangible and distributed nature. It was concluded that the proposed comprehensive reform is a necessary condition for ensuring legal certainty, protecting rights, stimulating innovation, and supporting the European integration of Ukraine in the digital economy. The practical significance of the proposed model lies in creating prerequisites for legal certainty in the digital assets market, reducing regulatory and procedural risks for participants, and enhancing the protection of users and creditors

Keywords: blockchain; cryptocurrency; enforcement proceedings; possession; smart contracts

Introduction

The relevance of this study is determined by the fact that the legal regulation of digital assets represents one of the most dynamic segments of modern law. Conducting this research was particularly urgent as of November 2025, as Ukraine is at a crucial stage of European integration, which requires the immediate harmonisation of national legislation with European standards. While leading jurisdictions (the USA and the EU) are actively moving away from attempts to adapt existing legal categories towards the development of autonomous (*sui generis*) concepts, the current Ukrainian approach demonstrates its incapacity, thereby creating risks for financial stability and the investment climate. At the same time, in Ukraine, the regulatory framework in this area remains at the formative stage: the approach has not yet been established, and procedural mechanisms for protecting the rights of participants have not been unified. The key problem is that the Ukrainian legal system governing digital objects is in a state of deep conceptual crisis. The legislative attempt to subordinate

Suggested Citation:
Shuliaka, B. (2025). The *sui generis* concept for digital assets: Ways to overcome legal conflicts and build an effective regulatory regime in Ukraine. *Philosophy, Economics and Law Review*, 5(2), 46-59. doi: 10.63341/2786-491X-2025-2-46.

*Corresponding author

these new, intangible phenomena to the traditional property-law category of "digital things" (Article 179-1 of the Civil Code of Ukraine, 2004) is not merely a theoretical error, but the root cause of systemic legislative contradictions, a legal vacuum (in particular, the invalidity of the relevant law), and practical failures within the judicial and law enforcement systems.

The problem of the legal qualification of digital assets constitutes a global challenge that is actively discussed in the scientific literature. This issue is particularly acute in Ukrainian legal doctrine, as it lacks a unified approach to determining the legal nature of these objects, and researchers demonstrate radically divergent positions regarding the introduced category of "digital things". On the one hand, a number of scholars justify the expediency of a property-law approach. K. Nekit (2022), in the study of the essence of virtual assets, argued in favour of recognising them as a type of "digital things". The author concluded that the characteristics of cryptocurrencies (in particular, exhaustibility, the impossibility of unlimited replication in contrast to information, and alienability) bring them closer to objects of the material world, albeit without a material substrate. O. Tanasyuk (2025), analysing Article 179-1 of the Civil Code of Ukraine in the context of tort obligations, likewise proceeded from the legitimacy of this construction. Defining the features of a digital thing as an intangible property good to which a property regime applies and in relation to which absolute rights arise through exclusive control, the author confirmed that obligations to compensate for damage may arise in connection with threats directed at a digital thing, for example during a cyberattack. On the other hand, this approach directly contradicts the conclusions of scholars who defend the intangible nature of these assets. L. Maksymiv (2025), in the study of intangible goods, proposed classifying virtual assets (including cryptocurrency) as property intangible goods that form part of property alongside property and corporate rights, thereby categorically denying their material nature. This doctrinal contradiction generates significant legal uncertainty and terminological confusion within legislation, as emphasised by Ye. Savchenko (2024). The author analysed the relationship between the definitions of "digital things", "digital assets", and "virtual assets" and concluded that there is no clear legislative distinction between them, proposing a hierarchy in which "digital things" (a legal category) and "digital assets" (an economic category) function as generic concepts. The need to overcome this terminological confusion and to develop a functional classification for the formation of differentiated regulation was also emphasised by S. Aksiukov (2024), who analysed various draft laws and highlighted the absence of a unified legal approach in Ukraine.

The lack of doctrinal unity complicates the resolution of practical tasks, particularly in the fields of taxation and law enforcement. V. Savenkova & B. Vykhrystenko (2025) pointed to fundamental problems of regulation and taxation arising from the wide variety of virtual assets (for example, decentralised Bitcoin versus secured stablecoins) and the impossibility of applying existing control methods to peer-to-peer transactions, concluding that special regulation is required. I. Guleykov (2025), in the conducted study, also characterised digital assets as "atypical objects" of civil relations, the specificity of which is determined by their innovative nature and the absence of adequate regulation. M. Pohrebniak (2025) summarised these challenges by analysing the overall transformation of civil law under the influence of artificial intelligence and digitalisation. The author substantiated the urgent need to harmonise Ukrainian legislation, including the regulation of "digital things", with European standards in order to ensure a balance between innovation and the protection of rights.

Researchers also noted deficiencies in national regulation. V. Hrudnytskyi (2023) observed that the legal regulation of the circulation of virtual assets in Ukraine remains at an early stage and requires further improvement, in particular through clarification of the conceptual framework, identification of the characteristics of different types of assets, and delimitation of the powers of regulatory authorities. P. Duravkin (2024), analysing the circulation of cryptocurrencies in the context of taxation, points to their nature as intangible goods and objects of civil-law relations, emphasising the urgency of establishing appropriate regulatory regulation. At the same time, international standards, particularly those developed by the Financial Action Task Force, require states to implement effective mechanisms for the licensing or registration of virtual asset service providers and the application of anti-money laundering and counter-terrorist financing (AML/CFT) measures. This creates additional challenges for national regulators, as noted by L. De Koker *et al*. (2022), who analysed the jurisdictional problems associated with the supervision of foreign virtual asset service providers. N. Schwarz *et al*. (2021), in their work prepared for the International Monetary Fund, also emphasised the vulnerability of virtual assets to criminal use and the necessity of implementing a robust AML/CFT framework based on Financial Action Task Force standards.

Despite the substantial number of international and Ukrainian studies examining the legal nature of digital assets and the problems of their regulation, the issue of the absence of a comprehensive and systemic model for reforming Ukrainian legislation remains unresolved. Existing studies predominantly either identify a crisis and terminological confusion or propose fragmentary solutions addressing individual aspects, such as taxation. In light of this gap, the present study aimed to develop a comprehensive, multi-level model for reforming Ukrainian legislation on digital assets.

To achieve this objective, the following tasks were set: to conduct a critical analysis of current Ukrainian legislation and law enforcement practice; and to develop and substantiate a strategic roadmap for legislative and institutional reform.

Materials and Methods

The research was theoretical-legal and comparative-legal in nature. Achievement of the stated goal was ensured through the consistent application of specific methods of legal science to relevant primary sources, in particular regulatory legal acts and official documents of Ukraine, the USA, and the EU, as well as analytical reports produced by international organisations and research centres as of 2025. To diagnose the conceptual crisis of the Ukrainian legal framework, doctrinal analysis and the formal legal method were employed. These methods were used to conduct a detailed examination of the provisions of the Civil Code of Ukraine (2004), in particular Articles 177, 179-1, 387, and 391, which regulate the objects of civil rights and methods of their protection. Relevant provisions of procedural legislation were also analysed, including the Criminal Procedure Code of Ukraine (2012) (Chapter 17), the Civil Procedure Code of Ukraine (2004), and the Law of Ukraine No. 1404-VIII (2016). The status of the Law of Ukraine No. 2074-IX (2021) and the reasons for its invalidity were examined, in particular in connection with the Law of Ukraine No. 4017-IX (2023). In addition, in order to understand the technological context of new phenomena – decentralised autonomous organisations (DAO), decentralised finance protocols (DeFi), and smart contracts – publicly available reference sources (web glossaries and technical descriptions) were analysed, as well as the Law of Ukraine No. 3425-XII (1993) in relation to inheritance issues.

To develop reform proposals and substantiate them, the comparative legal method and qualitative content analysis of international sources were applied. US strategic documents were examined, in particular Executive Order of the President of the United States No. 14178 (2025) and the report of the US Department of the Treasury (2025), in order to identify US approaches to the classification of digital assets, regulatory priorities, and inter-agency coordination. The EU approach was also analysed through a detailed examination of the structure and key provisions of the EU Regulation on Markets in Crypto-Assets (MiCA), based on the analytical paper by I. Angeloni & C. Tille (2025). To assess the global context of the use of digital assets, associated risks, and levels of user awareness, secondary data analysis and qualitative content analysis of analytical reports produced by international organisations and research companies were employed. In particular, data from the Organisation for Economic Co-operation and Development report (2025) on levels of digital financial literacy and risk awareness among crypto-asset owners were analysed. To assess market size, trends in cryptocurrency adoption and use, including illicit use, reports by Chainalysis (2025), a16zcrypto (2025), Fidelity Digital Assets (2025), EY (2025), and the Cybercrime Trends (2025) were examined. At the final stage, legal synthesis and modelling methods were applied to formulate specific legislative proposals and recommendations.

Results

Critical diagnosis of systemic failures: Conceptual crisis of digital asset regulation in Ukrainian law

Analysis of current Ukrainian legislation and law enforcement practice in the field of digital assets reveals a systemic crisis originating from a fundamental conceptual error – namely, the attempt to subordinate new, intangible digital phenomena to the traditional property-law paradigm. The introduction of the construct of a "digital thing" in Article 179-1 of the Civil Code of Ukraine (2004) represents not merely an inappropriate terminological choice, but the root cause of a chain reaction of legal conflicts, a legislative vacuum, and the ineffectiveness of mechanisms for the protection of rights in this sphere. This approach may be regarded as an example of the "inertia of legal tradition", whereby the deep roots of Ukrainian civil doctrine in the Romano-Germanic concept of res (thing) led to the selection of the path of least resistance – the creation of a legal fiction – instead of the more complex but necessary task of developing a new, adequate legal category based on first principles. The consequence of this choice has been not only doctrinal uncertainty, but also the practical paralysis of law enforcement, which calls into question the very possibility of effective legal regulation of the digital economy in Ukraine and stands in marked contrast to the more comprehensive approaches being developed in other leading jurisdictions.

A significant deficiency of the "digital things" construct lies in its ontological incompatibility with the nature of digital assets such as cryptocurrencies, tokens, or NFTs. Classical property law, rooted in Roman law, is based on the concept of a thing as a material, physically tangible object of the external world over which physical domination (possession) may be exercised. It is precisely this possibility of physical control that underpins the entire system of property rights (ownership, possession, easements, and related institutions) and the methods of protection derived from it. The institutions of vindication (reclaiming a thing from unlawful possession), the negative claim (removal of obstacles to use), and acquisitive prescription all implicitly presuppose the existence of an individually defined, physically existing object that can be localised in space, identified, and physically returned, or in respect of which obstacles to use can be removed. This constitutes an axiom for traditional objects of civil rights.

Digital assets, by contrast, are inherently intangible goods. They exist as records in a distributed digital register (blockchain) and lack any physical form or spatial localisation. The legal relationship between a person and a digital asset is determined not by physical possession, but by cryptographic control – namely, possession of a closed (private) key that provides the technical capacity to execute transactions involving the corresponding record in the register (Huang, 2021). This form of control is functional rather than physical. It represents the right of access to and disposal of a digital record, rather than dominion over a material substrate. Attempts to apply the category of a "things" to such an object inevitably result in logical and practical contradictions. As demonstrated in the previous study forming the basis of this work, this incompatibility renders traditional property-law methods of protection functionally inefficient and ineffective in the field of digital assets (Shuliaka, 2025). This Ukrainian qualification stands in sharp contrast to approaches adopted in other jurisdictions. In particular, in the United States, the comprehensive approach articulated in the report of the US Department of the Treasury (2025), prepared in implementation of Executive Order of the President of the United States No. 14178 (2025), examines digital assets through the prism of their functions within financial markets, banking, and payment systems, as well as the risks of illicit financing and the implications for the international competitiveness of the US dollar. The US administration emphasises the need to develop a "durable framework" that takes into account the diversity of digital assets, their specific functions, and the risks associated with them, rather than reducing them to a single simplified category. Such a simplified approach also disregards the actual scale of use, associated risks, and the level of public understanding of digital assets, as evidenced by international data (Table 1).

Table 1. Comparative dynamics of the development of digital asset markets (2022-2025)

Indicator	Ukraine	USA	EU
Market capitalisation of resident digital assets (2025)	USD 1.3 billion	USD 1.15 trillion	USD 0.85 trillion
Cryptocurrency capitalisation growth 2022-2025	60%	48%	42%
Share of population owning crypto assets	13.5%	18.2%	10.9%
DeFi's share in crypto capitalisation	12%	21%	17%
Digital asset transaction volume (2024)	USD 60 billion	USD 2.4 trillion	USD 1.6 trillion
Number of active Web3/DeFi/NFT companies	240	9,800	6,300
Institutional investments in crypto assets (2025)	USD 0.12 billion	USD 310 billion	USD 240 billion
Level of state regulation (score 0-5)	1.5 (fragmentary)	4.5 (complex, developing)	4 (harmonised MiCA)
Crypto fraud rate (per 100,000 users)	6.3	2.8	3.5
Availability of a mechanism for the seizure/ confiscation of digital assets (legally)	Missing/inactive	Partially/developing	Partially/developing

Source: compiled by the author based on analysis of US Department of the Treasury (2025), a16zcrypto (2025), Organisation for Economic Co-operation and Development (2025), Fidelity Digital Assets (2025), EY (2025)

The practical impossibility of applying classic property-law claims becomes evident when considering a claim for recovery (Article 387 of the Civil Code of Ukraine, 2004), which presupposes that an owner reclaims an individually defined thing from another person's unlawful possession. In the case of the theft of cryptocurrency, for example Bitcoin or Ethereum – assets characterised by significant market capitalisation, high volatility, and growing integration into financial markets – and its transfer to an anonymous wallet controlled by the attacker, the application of recovery encounters a number of obstacles (Fidelity Digital Assets, 2025). Most cryptocurrencies constitute generic rather than individually defined objects, as one Bitcoin is functionally identical to another within the protocol, which already complicates the application of a claim designed for unique things. Even if it is technically possible to trace specific Unspent Transaction Outputs within the Bitcoin blockchain, their legal qualification as "individually identifiable things" remains conceptually unfounded. Moreover, the concept of ownership in the physical sense is inapplicable to cryptocurrency. The wallet holder does not physically possess the cryptocurrency, but merely controls access to the corresponding record in the blockchain through a private key. Likewise, an attacker who has obtained control of the key or executed an unauthorised transfer does not physically possess the cryptocurrency, but only exercises cryptographic control over a new record in the distributed ledger. The identification of an "illegal possessor" is often impossible due to the pseudonymous or anonymous nature of blockchain transactions. This problem is recognised as a key challenge at the international level. The report of the US Department of the Treasury (2025) highlights the risks associated with anonymity and the use of digital assets in illegal activities, particularly money laundering and terrorist financing. Even where it is technically possible to trace the movement of assets to a specific wallet using blockchain analytics tools, establishing the identity of the person controlling that wallet is, in practice, extremely difficult without additional investigative measures, which are often cross-border in nature and complicated by the absence of cooperation with unregulated exchanges (Cybercrime Trends, 2025). Consequently, bringing a vindication claim against an unknown person who does not possess the object in the traditional, physical sense becomes both legally and practically impossible.

Similar conceptual difficulties arise in relation to the negative claim (Article 391 of the Civil Code of Ukraine, 2004), which is intended to eliminate obstacles to the owner's exercise of the right to use and dispose of property. In the case of a non-fungible token (NFT) certifying the uniqueness of a particular digital object, such as a work of digital art, unauthorised use of that work by a third party – for example, copying or displaying it without the consent of the NFT owner, thereby undermining the exclusivity of the token – raises serious doubts as to the applicability of a negative claim. This type of claim inherently presupposes the existence of a physical thing and physical obstacles to its use or disposal. Since neither the NFT nor the associated digital object constitutes a physical thing, and the infringement occurs within the digital environment – more closely related to intellectual property rights, contractual rights, or specific rights arising from a smart contract – the application of a negative claim appears artificial and conceptually unjustified. This detailed analysis is corroborated by the findings of a previous study (Shuliaka, 2025), which demonstrated that the fundamental incompatibility between the intangible, cryptographically controlled nature of digital assets and the physical assumptions underlying property law renders its traditional instruments unsuitable for protecting rights in this domain. This situation generates significant risks for users, as also reflected in data published by the Organisation for Economic Co-operation and Development (2025), which indicate a low level of digital financial literacy among crypto-asset owners. In 2023, only 29% of adults across 39 countries reached the minimum target level of digital financial literacy, and among crypto-asset owners only 55% understood that such assets do not constitute legal tender within their jurisdiction. The absence of effective legal protection mechanisms in Ukraine, combined with this low level of awareness, substantially increases users' vulnerability to fraud and financial loss.

This doctrinal failure in substantive law – namely, the definition of an object in the Civil Code of Ukraine (2004) – creates a critical procedural problem that effectively paralyses law enforcement. An incorrect understanding of the nature of an object makes it impossible to develop effective rules for its handling and protection within procedural legislation, including the Criminal Procedure Code of Ukraine (2012), the Civil Procedure Code of Ukraine (2004), and the Law of Ukraine No. 1404-VIII (2016), as well as subsequent specialised acts. This also applies to tax legislation governing the taxation of transactions involving digital assets and to special financial monitoring acts aimed at preventing the laundering of proceeds derived from digital assets. Procedural rules governing the search, arrest, confiscation, or seizure of property have traditionally been designed with physical objects in mind – movable and immovable property, funds held in bank accounts, or securities – namely, objects that possess a physical form, a clearly identifiable geographical location, or a registered owner and a centralised intermediary (such as a bank or depository) through which coercive measures may be applied.

The rules governing the seizure of property in criminal proceedings (Chapter 17 of the Criminal Procedure Code of Ukraine, 2012) have proven to be entirely unsuitable for digital assets. These rules are ineffective because it is both legally and practically impossible to seize cryptocurrency stored on an unidentified hardware wallet or on a wallet controlled by a person located outside the jurisdiction of Ukraine. The physical seizure of a storage medium (a computer or flash drive) does not ensure access to the assets in the absence of a private key. Moreover, it is technically impossible for state authorities to block or freeze a record in a decentralised ledger such as Bitcoin or Ethereum. In practice, the only viable means of establishing control over digital assets is either to obtain the private key – for example, through its voluntary disclosure by suspects or its forcible seizure during a search – or to compel the owner to transfer the assets to a wallet controlled by the state. However, existing procedural legislation does not provide for such specific mechanisms, nor does it establish appropriate standards of proof or safeguards for the protection of individual rights when such measures are applied. Judicial practice concerning the seizure of cryptocurrencies, analysed in a previous study (Shuliaka, 2025), clearly illustrates this problem: courts either refuse to order seizure due to the unclear legal status of the object, or apply analogies with uncertificated securities or property rights, which is legally questionable and fails to resolve the issue of actual control. By contrast, the approach of the United States, although still evolving, already emphasises the need to enhance instruments for combating the illicit use of digital assets, including expanded powers to trace transactions, cooperation with private-sector actors such as exchanges, and the confiscation of assets obtained through criminal activity (US Department of the Treasury, 2025). This comparison underscores the urgent necessity of modernising Ukrainian procedural law.

This conceptual problem generates systemic procedural obstacles that extend beyond criminal law and significantly complicate law enforcement in civil proceedings. Comparable difficulties arise when attempts are made to apply existing procedural mechanisms to digital assets. In particular, the division of cryptocurrency assets upon divorce becomes problematic when one spouse conceals access to private keys or employs anonymisation tools. The inclusion of NFTs in the estate and their transfer to heirs are likewise complicated by the absence of technical and legal mechanisms enabling notaries to identify, value, and ensure the transfer of cryptographic control. The enforcement of a debtor's digital assets in enforcement or bankruptcy proceedings also becomes virtually impossible due to their decentralised storage and the possibility of rapid cross-border transfer beyond the effective control of state authorities. The absence of clear procedural instruments, resulting from an incorrect substantive legal framework based on the concept of a "digital things", in practice amounts to a denial of access to justice for a significant category of disputes involving digital assets. This situation not only undermines confidence in the legal system, but also stimulates shadow trading and complicates the protection of the rights of bona fide market participants. This state of affairs contrasts with the approach adopted in the European Union, where the MiCA Regulation (Angeloni & Tille, 2025), although not resolving all procedural issues, establishes a comprehensive regulatory framework that recognises different types of crypto-assets (ARTs, EMTs, and Utility Tokens) and sets requirements for their issuers and service providers. Such classification of assets and regulation of market actors constitutes a necessary prerequisite for the subsequent development of effective procedural mechanisms at the national level of EU Member States. A comparison of key aspects of the regulatory approaches adopted by Ukraine, the United States, and the European Union clearly demonstrates differences in conceptual frameworks, legislative status, regulatory priorities, and institutional capacity (Table 2).

Table 2. Comparison of key aspects of regulatory approaches to digital assets (as of Q4 2025)

Aspect	Ukraine	USA	EU (MiCA Regulation)
Basic Act/Strategy	Law of Ukraine No. 2074-IX (not in force)	EO 14178 + draft acts (GENIUS, CLARITY); Department of the Treasury Report (2025)	Regulation (EU) 2023/1114 (MiCA)
Main regulators	Ministry of Digital Affairs/National Bank of Ukraine/National Securities and Stock Market Commission (project)	Securities and Exchange Commission, Commodity Futures Trading Commission, Financial Crimes Enforcement Network, Office of the Comptroller of the Currency, Department of the Treasury, Federal Reserve System (fragmented)	European Banking Authority and European Securities and Markets Authority (main); national regulators
Approach to asset classification	"secured/unsecured" (not valid)	Functional (security/commodity/payment instrument); discussion ongoing	Functional: ARTs, EMTs, Utility Tokens, other crypto assets
Regulation of stablecoins	Unregulated	Allowed under GENIUS Act; high regulatory priority	Strict regulation of ARTs and EMTs (reserves, capital, authorisation)
DeFi/DAO Regulation	Missing	Under study; Financial Crimes Enforcement Network/Securities and Exchange Commission pilot principles; regulation announced	Largely outside MiCA; regulation expected
Tax regime (Reporting)	Fragmentary/incoherent	Internal Revenue Service: reporting under the Crypto-Asset Reporting Framework rules from 2025	Crypto-Asset Reporting Framework implemented
Approach to innovation	Missing	The «responsible innovation» approach	Proportionality of regulation + possibility of national «sandboxes»
Central bank digital currency (CBDC)	E-hryvnia pilot (without legal basis)	Under investigation; EO 14178 raises concerns	Digital Euro in the preparation/piloting phase
Institutional coordination of regulators	None / Low	Presidential Working Group; Interagency Coordination	Coordinated network of regulators (European Banking Authority, European Securities and Markets Authority, national authorities)
Regulatory Efficiency Index (score 0-10)	3.1	8.4	8.1

Source: compiled by the author based on analysis of US Department of the Treasury (2025), I. Angeloni & C. Tille (2025)

The invalidity of the Law of Ukraine No. 2074-IX (2021) – adopted in 2021, but the entry into force of which depends on the adoption of amendments to a number of legislative acts in connection with the entry into force of the Law of Ukraine No. 4017-IX (2023) – cannot be regarded merely as a technical delay. Rather, it represents a manifestation of a deeper problem, namely institutional inconsistency and conceptual uncertainty in state policy in the field of the digital economy. The absence of appropriate tax regulation and the delay in adopting the relevant legislative act indicate either a lack of political will or the absence of a strategic consensus among public authorities regarding the prioritisation of the digital economy: whether it should be treated primarily as an additional source of fiscal revenue or as an innovative sector requiring state support and a favourable regulatory environment for development. This uncertainty is further exacerbated by the fact that the Law of Ukraine No. 2074-IX itself, although representing a certain legislative advance compared to Article 179-1 of the Civil Code of Ukraine (2004), still contains significant conceptual shortcomings. In particular, its classification of virtual assets into "secured" and "unsecured" categories is overly simplistic, does not correspond to the functional approach adopted in the European Union under the MiCA framework (Angeloni & Tille, 2025), and fails to reflect the economic realities of different types of tokens. In addition, the ongoing debate in the United States concerning the classification of digital assets as securities, commodities, or other categories, as well as the distribution of regulatory powers between the Securities and Exchange Commission and the Commodity Futures Trading Commission, illustrates the complexity of this issue even within a developed jurisdiction (US Department of the Treasury, 2025). Ukrainian regulatory stagnation in this sphere is therefore a direct consequence of an initial methodological error – namely, an attempt to regulate a fundamentally new phenomenon without an adequate doctrinal foundation, effective international coordination, or a coherent strategic vision.

Moreover, the current Ukrainian legal system, built upon the archaic concept of a "things" as the object of legal relations, proves to be conceptually ill-suited to contemporary technological realities that extend beyond mainstream cryptocurrencies and NFTs. This includes such phenomena as DAO, DeFi, and self-executing smart contracts. These innovations necessitate a reassessment not only of the concept of a "things", but also of the foundational categories of traditional law, including legal personality, ownership, control, jurisdiction, and liability. DAOs, which operate on the basis of software code and are collectively governed by token holders without centralised management, do not fit within existing organisational or legal forms. DeFi protocols, which enable lending, exchange, insurance, and other financial operations directly between users without banks or exchanges, call into question the effectiveness of traditional financial regulation based on the licensing of intermediaries. Smart contracts, which automatically execute contractual terms upon the occurrence of predefined conditions, raise complex issues regarding their legal force, the possibility of modification or termination, the interpretation of contractual terms, and liability for errors in code or external manipulation, such as attacks on data oracles. Legislation grounded in the legal fiction of "things", centralised entities, and territorial attachment is, a priori, incapable of providing effective regulation for decentralised, autonomous, and globally distributed systems. This problem is also recognised in the United States, where official reports emphasise the need to adapt regulatory frameworks to innovations in payment systems and to address the growing risks associated with DeFi, including the vulnerability of smart contracts and the absence of clear consumer protection mechanisms (US Department of the Treasury, 2025). The widening gap between technological development and legal regulation in Ukraine renders existing legal norms increasingly ineffective and demonstrates the inherent limitations of national law within a global digital environment. The lack of progress not only hinders the development of the digital economy, but also generates significant risks for financial stability and consumer protection, as emphasised by both the Organisation for Economic Co-operation and Development (2025) and US regulatory authorities. Addressing these challenges requires an immediate transition to fundamentally new regulatory approaches based on recognition of the unique (*sui generis*) nature of digital assets, functional classification, technological neutrality, and international harmonisation.

Strategic map of legislative and institutional reform: Building a *sui generis* regime for digital assets

The systemic failures in the Ukrainian legal framework concerning digital assets identified in the preceding analysis demonstrate that further attempts to adapt such assets to the existing property-law paradigm are both doctrinally unfounded and functionally infeasible. A fundamental revision of regulatory approaches is therefore required, involving a comprehensive, multi-level reform encompassing the foundational doctrinal principles of civil law, specific substantive legal norms, and relevant procedural mechanisms. This reform should be grounded in recognition of the unique, *sui generis* nature of digital assets as an independent category of objects of civil rights. At the same time, it must be strategically aligned with key international regulatory trends, particularly the EU legal framework, in order to ensure legal certainty, stimulate innovation, protect the rights of market participants, and support Ukraine's European integration. Below is a detailed strategic map of such reform, including specific legislative proposals and justifications for their necessity.

The primary task is to eliminate the root cause of the conceptual crisis – the erroneous legal fiction of a "digital thing". This necessitates substantial amendments to the Civil Code of Ukraine (2004). It is proposed to repeal Article 179-1 of the Civil Code of Ukraine in its entirety. This measure would remove a non-functioning and doctrinally unsound construct that generates systemic contradictions and impedes effective legal regulation. The elimination of this provision would harmonise the legal framework and create the conditions for a logically coherent and functional regulatory model. Furthermore, Article 177 of the Civil

Code of Ukraine ("Objects of Civil Rights") should be amended by supplementing the list of objects of civil rights with a new, independent category – "digital assets". This amendment would consolidate their special legal status at the level of the general provisions of civil law, clearly distinguishing them from things, property rights, results of intellectual activity, and other traditional categories. In addition, a new article should be introduced (for example, Article 177-1 of the Civil Code of Ukraine), providing a general legal definition of a digital asset and outlining its key ontological characteristics. It is proposed to define a digital asset as "an intangible good that exists and circulates exclusively within a digital environment based on distributed ledger technology or similar technology, certifies the property or non-property rights of its holder, possesses value, can be individually identified and controlled through cryptographic or other technical means, and whose legal regime, including the features of the emergence, exercise, and termination of rights thereto, is determined by law". This doctrinal reform is of fundamental importance for the further development of legal regulation. It formally recognises the unique (*sui generis*) intangible nature of digital assets and clearly differentiates them from tangible things. It identifies cryptographic or technical control as a key characteristic, functioning as the digital analogue of ownership. Moreover, it establishes the principle of special regulation by referring the detailed legal regime of different types of digital assets to separate legislation. This approach severs the conceptual link with traditional property law and creates a solid civil-law foundation for the development of a modern, flexible, and functional regulatory framework. Such a solution corresponds to the internal logic of civil law development in relation to the emergence of new categories of goods.

The next step involves revising the Law of Ukraine No. 2074-IX and related legislation on the basis of a new *sui generis* doctrinal framework and with strategic orientation towards the EU Regulation on Markets in Crypto-Assets (MiCA) (Angeloni & Tille, 2025). The current Ukrainian classification of virtual assets into "secured" and "unsecured" categories requires revision, as it is overly simplistic and does not correspond to international regulatory approaches. Instead, it is proposed to adopt a functional classification modelled on the MiCA Regulation, which distinguishes the following principal categories: Asset-Referenced Tokens (ARTs), E-Money Tokens (EMTs), Utility Tokens, and Other Crypto-Assets. Such a transition introduces a risk-based regulatory approach, under which more stringent requirements apply to stablecoins (ARTs and EMTs), given their higher potential risks to financial stability. Full harmonisation with MiCA constitutes a necessary precondition for integrating the Ukrainian digital asset market into the EU internal market and ensuring the ability of Ukrainian companies to operate within the European Union. The adoption of European definitions would enhance legal certainty for Ukrainian businesses, investors, and consumers. At the same time, Ukraine should treat MiCA as a minimum regulatory standard. As a political compromise, MiCA deliberately excludes certain emerging areas, such as decentralised finance (DeFi) and specific categories of NFTs, and therefore operates within a framework of incomplete and fragmented regulation. Given Ukraine's well-developed IT sector, regulatory policy should not be limited to this minimum (EY, 2025). Accordingly, a two-pronged strategy is proposed. The first component involves the full and rapid implementation of the MiCA framework with respect to the core categories of crypto-assets and related services, ensuring maximum harmonisation with EU law. The second component entails the parallel development of a national "innovative" regulatory regime addressing emerging areas such as DeFi, DAO, and NFTs. This may be achieved through the introduction of a soft, adaptive regulatory regime, drawing on the experience of other innovation-oriented jurisdictions. Such a dual approach would position Ukraine as a proactive regulatory actor and a potential regional leader in the field of digital regulation, capable of attracting investment into innovative sectors.

The subsequent step concerns the reform of procedural law in order to establish effective instruments for protection and enforcement. It is necessary to introduce specific, targeted amendments to procedural legislation to ensure that substantive reforms are practically operable. In particular, a new dedicated chapter or set of provisions should be introduced into the Criminal Procedure Code of Ukraine (2012) (for example, "Measures to Ensure Criminal Proceedings Concerning Digital Assets"). This chapter should establish clear procedures for identification and tracing, define legal standards for the admissibility of blockchain analytics data as evidence, and regulate interaction with crypto-asset service providers for the purpose of obtaining information on account holders. These measures are consistent with the efforts undertaken in the United States to strengthen tools for combating the illicit use of digital assets (US Department of the Treasury, 2025). A clear legal definition of the seizure of a digital asset should be established, conceptualising it as the acquisition of effective control by a law enforcement authority. This may include a court order mandating the forced transfer of assets to a state-controlled wallet, the seizure and secure storage of private keys, or the freezing and confiscation of assets held on centralised platforms. Clear rules must also be established for the valuation and storage of seized digital assets in order to prevent their loss or depreciation. An analogous legal mechanism should be introduced into the Law of Ukraine No. 1404-VIII (2016) to enable the enforcement of digital assets on the basis of court decisions in civil, commercial, and administrative proceedings.

This should include procedures for identifying a debtor's digital assets, imposing seizure, and effecting their forced transfer or sale. In addition, special rules governing the inheritance of digital assets should be incorporated into the Civil Code of Ukraine (2004) and the Law of Ukraine No. 3425-XII (1993). These rules should define the procedure for including digital assets in an estate, establish methodologies for their identification and valuation by a notary, and provide secure mechanisms for transferring control to heirs. These procedural reforms constitute a necessary condition for the effective functioning of the entire regulatory system. In their absence, substantive legal norms will remain largely declarative and incapable of ensuring real protection of rights in the digital assets sphere.

The successful implementation of legislative reforms also requires the development of adequate institutional capacity. It is necessary to clearly delineate and define the powers of national regulators – the National Bank of Ukraine and the National Securities and Stock Market Commission – in accordance with the MiCA classification (Angeloni & Tille, 2025), while ensuring that they are provided with sufficient resources and expertise to exercise effective supervision. Law enforcement agencies, the judiciary, notaries, and enforcement officers require specialised training in blockchain technology, investigative techniques, and the application of new procedural rules. The experience of the United States, which places particular emphasis on inter-agency coordination among regulators and law enforcement bodies, is especially relevant for Ukraine. Given the inherently cross-border nature of the digital asset market, strengthening international cooperation in the areas of information exchange, mutual legal assistance, and joint enforcement constitutes a necessary precondition for the effectiveness of national regulation (Cybercrime Trends, 2025; Organisation for Economic Co-operation and Development, 2025). This also entails Ukraine's active participation in international forums and initiatives aimed at developing global regulatory standards. The proposed roadmap constitutes a comprehensive strategy for reforming the legal framework governing digital assets. It is based on recognition of their unique (*sui generis*) nature, harmonisation with international standards, particularly MiCA, and the establishment of effective procedural and institutional mechanisms. The implementation of this strategy will facilitate overcoming the existing conceptual crisis and will contribute to the creation of a robust legal foundation for the sustainable development of the digital economy.

Discussion

The results of this study revealed a profound conceptual crisis in the Ukrainian legal regulation of digital assets, arising from attempts to apply to them the inappropriate category of a "digital thing". This approach has resulted in systemic legislative conflicts, a legal vacuum (in particular due to the invalidity of the Law of Ukraine No. 2074-IX, 2021), and the paralysis of law enforcement mechanisms, thereby making effective protection of the rights of market participants impossible. In response to this crisis, a comprehensive three-level reform model was developed, based on recognition of the *sui generis* nature of digital assets, harmonisation with the EU MiCA Regulation (Angeloni & Tille, 2025), and the creation of adequate procedural instruments. These conclusions were both confirmed and further developed through comparison with contemporary scholarly research in this field.

The central proposal of the study – the introduction of a *sui generis* concept for digital assets – corresponds to a global trend towards identifying appropriate legal regimes for new and atypical objects. V. Dmitrishin (2023), analysing recent developments in Ukrainian copyright law, noted the expansion of the application of special (*sui generis*) rights as a means of identifying legal phenomena that do not fit within traditional legal categories. O. Doroshenko & L. Tarasenko (2023), in examining the legal regime applicable to non-original objects generated by computer programs, likewise substantiated the feasibility of applying *sui generis* rights in order to ensure legal certainty. This demonstrates that the *sui generis* approach is already gaining recognition within Ukrainian intellectual property law as a mechanism for regulating new digital phenomena. The model proposed in this study extends this logic to the broader category of digital assets, which is consistent with international experience. In particular, *sui generis* approaches have been employed to protect databases, as analysed by E. Derclaye & M. Husovec (2022), and have been proposed for the protection of communal intellectual property, as examined by T. Simatupang (2022) & H. Haryono (2022). These studies confirmed that the creation of a special legal regime is both justified and necessary where traditional legal categories, such as property law or classical intellectual property law, prove inadequate.

The problems of legal qualification of digital assets identified in Ukrainian legislation, notably the fiction of "things", are also the subject of extensive international scholarly debate. S. Tsukan (2023), analysing the concept and nature of virtual assets, pointed to the absence of unified definitions and clear classification as a major obstacle to effective legal regulation. V. Havva & M. Haponiuk (2023), in their study of digital financial assets, likewise identified terminological confusion within the national legal framework, including the use of such terms as "cryptocurrency", "digital assets", "crypto-assets", and "virtual assets", and proposed their own classification, attributing payment tokens and security tokens to financial assets, while excluding utility tokens. This supports the conclusion reached in this study regarding the necessity of transitioning to a functional classification based on the MiCA model, which offers a more differentiated approach than those currently employed in Ukraine. S. Hrytsai (2023), analysing draft laws proposing the introduction of the concepts of "digital thing" and "digital content", identified elements of legal tautology and the declarative nature of such amendments, which is likewise consistent with the critical assessment of Article 179-1 of the Civil Code of Ukraine (2004) presented in this work.

The legislative conflicts and legal vacuums identified in Ukrainian regulation represent a manifestation of a broader problem of systemic inconsistency within the legal system when introducing new norms. As noted by A. Chubai & O. Yukhimyuk (2021), legal conflicts arise as a result of intellectual errors and violations of the rules of legal drafting, thereby undermining the integrity of the legal system and necessitating their resolution in practice. D.I. Statkevich (2021), in analysing substantive legal conflicts, pointed to the potential use of digital technologies as instruments for overcoming such conflicts, which is particularly noteworthy in the context of regulating digital technologies themselves. The invalidity of the Law of Ukraine No. 2074-IX "On Virtual Assets" (2021) and the absence of comprehensive tax regulation, identified in this study, are also corroborated by other scholarly findings. V. Chyzhykov (2024) emphasised the existence of significant gaps in the regulation of accounting and taxation of virtual assets in Ukraine, despite the formal adoption of a specialised law, and highlighted the need for continuous updating of the regulatory framework. The proposal advanced in this study to harmonise Ukrainian legislation with the EU MiCA Regulation (Angeloni & Tille, 2025) is consistent with Ukraine's broader European integration trajectory and prevailing international trends. A. Nanavov & M. Blyznyuk (2025), in their comparative analysis of cryptocurrency regulation in the EU and Ukraine, explicitly identified the need for harmonisation with MiCA as a prerequisite for integration into the global financial system. In earlier work, A. Nanavov & M. Blyzniuk (2024) also stressed the importance of alignment with international standards for attracting investment, while noting that regulatory development in Ukraine remains at an initial stage. At the same time, T. Van der Lindenb & T. Shirazi (2023), analysing MiCA itself, expressed a degree of scepticism regarding its capacity to substantially accelerate the adoption of crypto-assets within the EU financial sector, due to the persistence of regulatory uncertainty in certain areas. This observation reinforces the relevance of the approach proposed in this study, namely the development of a national "innovation regime" alongside the implementation of MiCA. G. Soana (2024), in a critical assessment of European anti-money laundering regulation of crypto-assets, likewise argued that a simple replication of intermediary-based regulatory models may prove inadequate for decentralised systems, thereby necessitating the development of new, architecturally oriented regulatory solutions. This supports the conclusion of this study regarding the need to establish specialised procedural rules adapted to the technological characteristics of blockchain-based systems.

Procedural challenges associated with the seizure, confiscation, and enforcement of digital assets are also widely discussed in international scholarship. Issues of private international law and conflict of laws, examined by C. Wendehorst (2023) and A. Briggs (2024), underscore the complexity of cross-border enforcement of digital assets and the consequent need for enhanced international cooperation. The importance of developing global standards and strengthening regulatory requirements for crypto-asset service providers is likewise emphasised by P. Bains *et al*. (2022) in the International Monetary Fund's analysis of unbacked crypto-assets. Research by A. Copestake *et al*. (2023) demonstrates that crypto-asset markets are sensitive to regulatory interventions, such as bans or announcements concerning central bank digital currencies, thereby illustrating the significant impact of legal policy choices on market dynamics. Although the study by B. Kang *et al*. (2024) concerns video generation and physical laws, it nonetheless illustrates a broader methodological challenge: the difficulty of adapting existing models – in their case, artificial intelligence systems – to fundamentally new constraints. By analogy, this highlights the limitations of mechanically applying traditional legal concepts to novel digital realities, indicating that simple scaling or extension of established frameworks does not necessarily lead to an adequate understanding of underlying structural patterns. Accordingly, the findings of this study, which identify a deep conceptual crisis in the Ukrainian regulation of digital assets and propose a comprehensive reform based on a *sui generis* approach, harmonisation with MiCA, and the development of specialised procedural norms, are both confirmed and further elaborated in contemporary national and international academic discourse. The proposed model not only addresses the identified conflicts and regulatory gaps, but also aligns with global trends in the search for adequate legal regimes for innovative digital phenomena, thereby creating the prerequisites for legal certainty, effective protection of rights, and the sustainable development of Ukraine's digital economy within the European context.

Conclusions

The study found that the Ukrainian legal system regulating digital assets is in a state of conceptual crisis caused by attempts to apply the archaic property-law category of a "digital thing" to these phenomena. This fundamental error was identified as the root cause of systemic legislative contradictions, including conflicting definitions and the invalidity of sector-specific legislation, as well as the practical incapacity of law enforcement mechanisms, as evidenced by inconsistent judicial practice concerning the seizure of cryptocurrencies. It was determined that this situation creates a significant legal vacuum, inhibits the innovative development of the digital economy, and deprives citizens and businesses of effective instruments for the protection of rights in this sphere. A qualitative indicator of this crisis is the inherent impossibility of applying classical property-law claims, such as vindication and negation, to intangible, cryptographically controlled digital assets. The quantitative dimension of the problem lies in the potential risks faced by a substantial segment of the population, given the high level of crypto-asset adoption in Ukraine combined with low levels of digital financial literacy, as documented in international studies. This state of legal uncertainty not only obstructs the lawful circulation of digital assets, but also creates favourable conditions for shadow transactions and fraud, thereby undermining trust in public institutions. The absence of effective mechanisms for the seizure and confiscation of digital assets in criminal proceedings further complicates efforts to combat money laundering and the financing of illegal activities, posing a challenge to national security. In contrast to Ukraine, leading jurisdictions such as the United States and the European Union are actively developing comprehensive regulatory frameworks, highlighting the lag of the domestic legislator in responding to technological change. The results obtained demonstrate that a fragmented approach and attempts to adapt new phenomena to the existing legal system through the fiction of a "digital thing" have proven ineffective. It is confirmed that the continued use of this construct would only deepen legal dysfunction and create additional obstacles to European integration processes, particularly in the context of harmonisation with European standards. Accordingly, the study substantiates the urgent need to transition to a fundamentally new regulatory paradigm based on recognition of the unique (*sui generis*) nature of digital assets.

In response to the objectives set out in the introduction, the study developed a comprehensive three-level model for reforming Ukrainian legislation. At the doctrinal level, it is recommended to abandon the fiction of a "digital thing" and to consolidate "digital assets" as an independent category of intangible goods within Ukrainian legislation, defined through cryptographic control and governed by the principle of special regulation. At the substantive level, it is proposed to fundamentally revise special legislation by introducing a functional, risk-oriented classification and regulatory approach, using European standards as a minimum benchmark and supplementing them with a national innovation regime for emerging areas such as DeFi, DAO, and NFTs. At the procedural level, the necessity of developing and implementing special rules on seizure, enforcement, and inheritance was emphasised, aimed at establishing clear and effective procedures for the identification, tracing, seizure (understood as the establishment of control), recovery, and transfer of digital assets. The limitations of this study stem from its predominantly theoretical nature, based on the analysis of legislation and legal doctrine. It did not include an empirical examination of judicial practice or surveys of market participants. Priority directions for further research include an in-depth analysis of tax aspects and the development of a balanced taxation model, an empirical assessment of the impact of prospective reforms on market functioning and consumer protection, as well as the study of mechanisms for international cooperation in the field of law enforcement.

Acknowledgements

None.

Funding

None.

Conflict of Interest

None.

References

[1] a16zcrypto. (2025). *State of crypto 2025: The year crypto went mainstream*. Retrieved from https://surl.li/zujkab.
[2] Aksiukov, S. (2024). Problems of defining the concept and nature of virtual assets as an object of legal regulation in economic activity in Ukraine. *Analytical and Comparative Jurisprudence*, 1, 258-264. doi: 10.24144/2788-6018.2024.01.45.
[3] Angeloni, I., & Tille, C. (2025). *US digital asset strategy and the European response*. Retrieved from https://www.europarl.europa.eu/RegData/etudes/IDAN/2025/764386/ECTI_IDA(2025)764386_EN.pdf.
[4] Bains, P., Ismail, A., Melo, F., & Sugimoto, N. (2022). Regulating the crypto ecosystem: The case of unbacked crypto assets. *FinTech Notes*, 7, 1-47. doi: 10.5089/9798400221361.063.
[5] Briggs, A. (2024). *The conflict of laws*. Oxford: Oxford University Press. doi: 10.1093/oso/9780198895527.001.0001.
[6] Chainalysis. (2025). *The 2025 geography of crypto report*. Retrieved from https://go.chainalysis.com/2025-geography-of-cryptocurrency-report.html.
[7] Chubai, A.S., & Yukhimyuk, O.M. (2021). Ways to overcome substantive conflicts. In V. Palyonka & T. Lukanovskaya (Eds.), *Legal life: Current status and prospects for development* (pp. 84-86). Lutsk: Vezha-Druk.
[8] Chyzhykov, V. (2024). Prospects for regulation of accounting and taxation of virtual assets in Ukraine. *Ukrainian Economic Journal*, 5, 141-145. doi: 10.32782/2786-8273/2024-5-25.

[9] Civil Code of Ukraine. (2004, January). Retrieved from https://zakon.rada.gov.ua/laws/show/435-15#Text.
[10] Civil Procedure Code of Ukraine. (2004, March). Retrieved from https://zakon.rada.gov.ua/laws/show/1618-15#Text.
[11] Copestake, A., Furceri, D., & Gonzalez-Dominguez, P. (2023). Crypto market responses to digital asset policies. *Economics Letters*, 222, article number 110949. doi: 10.1016/j.econlet.2022.110949.
[12] Criminal Procedure Code of Ukraine. (2012, April). Retrieved from https://zakon.rada.gov.ua/laws/show/4651-17.
[13] Cybercrime Trends. (2025). Retrieved from https://sosafe-awareness.com/resources/reports/cybercrime-trends/.
[14] De Koker, L., Ocal, T., & Casanovas, P. (2022). Where's Wally? FATF, virtual asset service providers, and the regulatory jurisdictional challenge. In D. Goldbarsht & L. de Koker (Eds.), *Financial technology and the Law: Combating financial crime* (pp. 151-183). Cham: Springer. doi: 10.1007/978-3-030-88036-1_7.
[15] Derclaye, E., & Husovec, M. (2022). *Sui generis* database protection 2.0: Judicial and legislative reforms. *LSE Working Papers*, article number 11/2022. doi: 10.2139/ssrn.4138436.
[16] Dmitrishin, V.S. (2023). Special rights (*sui generis*). In *Materials from the international scientific and practical conference "Legal sciences: Problems and prospects"* (pp. 42-46). Lviv: Liha-Press. doi: 10.36059/978-966-397-292-3-11.
[17] Doroshenko, O., & Tarasenko, L. (2023). The *sui generis* right to non-original objects generated by a computer program: Novelties of legal regulation. *Theory and Practice of Intellectual Property*, 3, 87-96. doi: 10.33731/32023.282325.
[18] Duravkin, P. (2024). Legal regulation of the use and circulation of cryptocurrencies as a type of virtual (digital) assets in the context of taxation. *Law of Ukraine*, 4, 62-70.
[19] Executive Order of the President of the US No. 14178 "Strengthening American Leadership in Digital Financial Technology". (2025, January). Retrieved from https://surl.li/vzospi.
[20] EY. (2025). *Increasing allocations in a maturing market*. Retrieved from https://surl.li/pnwsyb.
[21] Fidelity Digital Assets. (2025). *Q3 2025 Signals Report*. Retrieved from https://www.fidelitydigitalassets.com/research-and-insights/q3-2025-signals-report.
[22] Guleykov, I. (2025). *Digital assets in civil circulation in Ukraine*. (PhD dissertation, F.G. Burchak Research Institute of Private Law, Kyiv, Ukraine).
[23] Haryono, H. (2022). Protection of communal copyrights through *sui generis* law. *Journal of the Budapest International Research and Critics Institute*, 5(3). doi: 10.33258/birci.v5i3.6397.
[24] Havva, V., & Haponiuk, M. (2023). Digital financial assets: Definition and classification. *Ekonomichnyy Analiz*, 33(3), 238-246. doi: 10.35774/econa2023.03.238.
[25] Hrudnytskyi, V. (2023). Legal regulation of the circulation of virtual (digital) assets in Ukraine. *Kyiv Law Journal*, 2, 43-49. doi: 10.32782/klj/2023.2.6.
[26] Hrytsai, S. (2023). Prospects for introducing the concept of "digital things" and "digital content": Expanding the scope of regulation of virtual assets. *Krakowskie Studia Małopolskie*, 2(38), 7-25. doi: 10.15804/ksm20230201.
[27] Huang, S.S. (2021). Crypto assets regulation in the UK: An assessment of the regulatory effectiveness and consistency. *Journal of Financial Regulation and Compliance*, 29(3), 336-351. doi: 10.1108/JFRC-06-2020-0062.
[28] Kang, B., Yue, Y., Lu, R., Lin, Z., Zhao, Y., Wang, K., Huang, G., & Feng, J. (2024). How far is video generation from world model: A physical law perspective. *ArXiv*. doi: 10.48550/arXiv.2411.02385.
[29] Law of Ukraine No. 1404-VIII "On Enforcement Proceedings". (2016, June). Retrieved from https://zakon.rada.gov.ua/laws/show/1404-19#Text.
[30] Law of Ukraine No. 2074-IX "On Virtual Assets". (2021, February). Retrieved from https://zakon.rada.gov.ua/laws/show/2074-20#Text.
[31] Law of Ukraine No. 3425-XII "On Notaries". (1993, September). Retrieved from https://zakon.rada.gov.ua/laws/show/3425-12#Text.
[32] Law of Ukraine No. 4017-IX "On Amendments to Certain Legislative Acts of Ukraine in Connection with the Adoption of the Law of Ukraine "On Administrative Procedure"". (2023, October). Retrieved from https://zakon.rada.gov.ua/laws/show/4017-20#n3947.
[33] Maksymiv, L. (2025). *Intangible assets as objects of civil legal relations*. (PhD dissertation, Vasyl Stefanyk Carpathian National University, Ivano-Frankivsk, Ukraine).
[34] Nanavov, A., & Blyzniuk, M. (2024). Regulation of cryptocurrencies in the EU and Ukraine: Challenges and prospects. *Odesa National University Herald*, 29(3), 12-17. doi: 10.32782/2304-0920/3-101-2.
[35] Nanavov, A., & Blyznyuk, M. (2025). Cryptocurrency regulation in the EU and Ukraine: A comparative analysis of approaches and their impact on economic stability. *Scientific Bulletin of Kherson State University. Series Economic Sciences*, 55, 44-51. doi: 10.32999/ksu2307-8030/2025-55-7.

[36] Nekit, K. (2022). Virtual assets as a type of digital commodity. *Časopis Civìlìstiki*, 45, 53-57. doi: 10.32837/chc.v0i45.466.

[37] Organisation for Economic Co-operation and Development. (2025). *Improving the digital financial literacy of crypto-asset users*. Retrieved from https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/09/improving-the-digital-financial-literacy-of-crypto-asset-users_e3e04272/19cfecad-en.pdf.

[38] Pohrebniak, M. (2025). Civil law and new realities: Digitization and artificial intelligence. *Scientific works of Kyiv Aviation Institute. Series Law Journal Air and Space Law*, 2(75), 144-151. doi: 10.18372/2307-9061.75.20227.

[39] Savchenko, Ye. (2024). Digital objects, digital assets, virtual assets, and digital tokens: To differentiate or consolidate. *Kyiv Law Journal*, 3, 87-95. doi: 10.32782/klj/2024.3.13.

[40] Savenkova, V., & Vykhrystenko, B. (2025). Theoretical and legal approaches and practical aspects pf determining virtual assets. *Uzhhorod National University Herald. Series: Law*, 3(87), 137-144. doi: 10.24144/2307-3322.2025.87.3.20.

[41] Schwarz, N., Chen, M., Poh, M., Jackson, M., Kao, K., Fernando, M., & Markevych, M. (2021). Virtual assets and anti-money laundering and combating the financing of terrorism (1): Some legal and practical considerations. *FinTech Notes*, 2(2021). doi: 10.5089/9781513593760.063.

[42] Shuliaka, B. (2025). Legal models of digital objects in the EU: Experience and prospects for adaptation to Ukrainian legislation. *Scientific Journal of the National Academy of Internal Affairs*, 30(2), 138-149. doi: 10.63341/naia-herald/2.2025.138.

[43] Simatupang, T.H. (2022). Initiating the concept of *sui generis* of the legal protection of communal intellectual property in the philosophy of science perspective. *Jurnal Penelitian Hukum De Jure*, 22(2), 243-256. doi: 10.30641/dejure.2022.V22.243-256.

[44] Soana, G. (2024). *The anti money laundering regulation of crypto-assets in Europe: A critical analysis*. Rome: Guido Carli Free International University of Social Studies (LUISS) in Rome.

[45] Statkevich, D.I. (2021). Substantive conflicts in legislation: Essence and ways to overcome them using digital technologies. In *Proceedings of the 88th scientific student conference "Innovative ideas and creative projects in the digital ecosystem"* (pp. 230-231). Kyiv: Kyiv National Economic University.

[46] Tanasyuk, O. (2025). A digital thing as the object of a threat of damage to an individual in obligations to compensate for damage caused as a result of rescuing the property of an individual. *Scientific notes. Series: Law*, 18, 330-336. doi: 10.36550/2522-9230-2025-18-330-336.

[47] Tsukan, S.V. (2023). Concept, legal nature and classification of virtual assets. *Uzhhorod National University Herald. Series: Law*, 1(80), 612-618. doi: 10.24144/2307-3322.2023.80.1.94.

[48] US Department of the Treasury. (2025). *Strengthening American leadership in digital leadership in digital financial technology*. Retrieved from https://www.whitehouse.gov/wp-content/uploads/2025/07/digital-Assets-Report-EO14178.pdf.

[49] Van Der Linden, T., & Shirazi, T. (2023). Markets in crypto-assets regulation: Does it provide legal certainty and increase adoption of crypto-assets? *Financial Innovation*, 9(1), article number 22. doi: 10.1186/s40854-022-00432-8.

[50] Wendehorst, C. (2023). Proprietary rights in digital assets and the conflict of laws. In A. Bonomi, M. Lehmann & S. Lalani (Eds.), *Blockchain and private international law* (pp. 101-127). Leiden: Brill. doi: 10.1163/9789004514850_007.

Концепція *sui generis* для цифрових активів: шляхи подолання правових колізій та розбудова ефективного регуляторного режиму в Україні

Богдан Шуляка

Аспірант

Європейський університет

03115, бульв. Академіка Вернадського, 16В, м. Київ, Україна

https://orcid.org/0009-0006-2895-705X

Анотація. Дослідження мало на меті розробити комплексну модель реформування українського законодавства щодо цифрових активів. Методологія дослідження ґрунтувалася на застосуванні доктринального аналізу та формально-юридичного методу. Ці методи були використані для вивчення джерел, що включало національне законодавство України, ключові нормативні та стратегічні документи провідних міжнародних юрисдикцій, а також аналітичні звіти міжнародних організацій. Основні результати підтвердили наявність глибокої концептуальної кризи в Україні, спричиненої невідповідністю категорії "цифрової речі" нематеріальній природі цифрових активів. Встановлено, що ця фікція призводить до системних законодавчих суперечностей, нечинності профільного закону та практичної неможливості застосування традиційних речово-правових (віндикаційного, негаторного) та процесуальних (арешт, звернення стягнення, спадкування) механізмів захисту прав, створюючи правовий вакуум та ризики для користувачів, особливо на тлі низької цифрової фінансової грамотності дорослих. Запропоновано трирівневу модель реформування правового регулювання цифрових активів. На доктринальному рівні – передбачено перегляд базових цивілістичних категорій з метою виокремлення цифрових активів як самостійного виду нематеріальних благ, що не підпорядковуються традиційним речово-правовим конструкціям. На матеріально-правовому рівні – запропоновано переосмислення змісту спеціального законодавства шляхом переходу до функціональної класифікації цифрових активів. На процесуальному рівні – запропоновано розроблення спеціальних механізмів для розслідування, арешту, звернення стягнення, передачі та спадкування цифрових активів із урахуванням їх нематеріальної та розподіленої природи. Зроблено висновок, що запропонована комплексна реформа є необхідною умовою для забезпечення правової визначеності, захисту прав, стимулювання інновацій та євроінтеграції України у сфері цифрової економіки. Практичне значення запропонованої моделі полягає у створенні передумов для правової визначеності на ринку цифрових активів, зниженні регуляторних та процесуальних ризиків для учасників, підвищенні захищеності користувачів і кредиторів

Ключові слова: блокчейн; криптовалюта; виконавче провадження; володіння; смарт-контракти