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Legal regulation of the procedure for inheriting digital assets in cross-border inheritance relations

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Abstract. The rapid development of digital technologies leads to a steady increase in the number of property rights that exist in digital form and have economic value. This trend creates a need for effective legal mechanisms for their inheritance, particularly in cases where succession relations are governed by the law of more than one state. The lack of a unified approach to the legal status of digital assets and to the procedures for their transfer by inheritance creates practical difficulties for heirs and law enforcement authorities. The purpose of the study is to determine the specific features of the legal regulation of the procedure for inheriting digital assets in cross-border inheritance relations, identify conflict-of-law issues, and formulate proposals for their resolution. The research applies general scientific and special legal methods, including the formal-logical method to define the conceptual framework, the comparative legal method to analyze approaches of different legal systems, the systemic-structural method to identify relationships between inheritance law and private international law norms, and legal modeling to develop proposals for improving legal regulation. It is established that digital assets are characterized by intangibility, dependence on technological platforms, and specific access conditions, which determine the particularities of their legal regime in inheritance law. It is established that the cross-border nature of inheritance requires determining the applicable law, jurisdiction, and mechanisms for recognizing heirs' rights across different states. The key problems identified include the lack of a unified definition of digital assets, differing approaches to their qualification as objects of civil rights, and limited access for heirs to accounts and digital resources. The necessity of harmonizing the legal regulation of digital asset inheritance at the international level, establishing their legal status in national legislation, and developing procedures for heirs' access to digital objects is substantiated. Directions for improving conflict-of-law rules and legal practice are proposed in order to ensure effective protection of inheritance rights in cross-border legal relations.

Keywords: digital rights, electronic property, inheritance relations with a foreign element, conflict-of-law regulation, legal status of digital objects, jurisdiction in inheritance disputes, international legal harmonization.

Правове регулювання процедури спадкування цифрових активів у транскордонних спадкових правовідносинах

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Анотація. Стрімкий розвиток цифрових технологій зумовлює постійне зростання кількості майнових прав, що існують у цифровій формі та мають економічну цінність. Така тенденція формує потребу у створенні ефективних правових механізмів їх спадкування, особливо у випадках, коли спадкові правовідносини регулюються правом більше ніж однієї держави. Відсутність уніфікованого підходу до правового статусу цифрових активів і процедур їх переходу у спадщину спричиняє практичні труднощі для спадкоємців та правозастосовних органів. Метою дослідження є визначення особливостей правового регулювання процедури спадкування цифрових активів у транскордонних спадкових правовідносинах, а також виявлення колізійних проблем і формулювання пропозицій щодо їх подолання. У роботі використано загальнонаукові та спеціально-юридичні методи дослідження, зокрема формально-логічний метод для визначення понятійного апарату, порівняльно-правовий метод для аналізу підходів різних правових систем, системно-структурний метод для встановлення взаємозв'язків між нормами спадкового та міжнародного приватного права, а також метод правового моделювання для формування пропозицій щодо вдосконалення правового регулювання. Встановлено, що цифрові активи характеризуються нематеріальною природою, залежністю від технологічних платформ та особливостями доступу до них, що зумовлює специфіку їх правового режиму у спадкових відносинах. Обґрунтовано, що транскордонний характер спадкування потребує визначення застосовного права, юрисдикції та механізмів визнання прав спадкоємців у різних державах. Виявлено, що ключовими проблемами є відсутність єдиного визначення цифрових активів, різні підходи до їх кваліфікації як об'єктів цивільних прав, а також обмежений доступ спадкоємців до облікових записів та цифрових ресурсів. Доведено необхідність гармонізації правового регулювання спадкування цифрових активів у міжнародному вимірі, закріплення їх правового статусу в національному законодавстві та розроблення процедур доступу спадкоємців до цифрових об'єктів. Запропоновано напрями вдосконалення колізійних норм і правозастосовної практики з метою забезпечення ефективного захисту спадкових прав у транскордонних правовідносинах.

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Ключові слова: цифрові права, електронна власність, спадкові правовідносини з іноземним елементом, колізійне регулювання, правовий статус цифрових об’єктів, юрисдикція у спадкових спорах, міжнародна уніфікація права.

Problem statement. The development of the digital environment has led to the emergence of new objects of property rights that exist in intangible form and have economic value. In the practice of inheritance, situations are increasingly arising in which such objects are associated with several legal systems, which complicates the determination of the applicable law, jurisdiction, and the procedure for the exercise of the rights of heirs. The existing legal mechanisms of inheritance are mainly based on traditional concepts of civil rights and do not fully account for the features of access, identification, and transfer of rights to digital resources. The lack of coordinated approaches to the legal status of digital assets, their qualification in inheritance law, and procedures for the exercise of inheritance rights across different states leads to conflicts in norms and heterogeneity in law enforcement practice.

The above problem is directly related to important scientific and practical tasks, in particular, the need to improve the legal regulation of inheritance relations with a foreign element, the formation of coordinated approaches to determining the legal regime of digital objects, as well as ensuring effective protection of the property rights of heirs in the international legal space. Solving these tasks will contribute to increasing legal certainty in the field of inheritance of digital assets, to the development of international cooperation in the private law regulation of cross-border inheritance relations, and to the adaptation of national legal systems to the conditions of the digital economy.

Analysis of recent research and publications. The legal regulation of the inheritance of digital assets and the application of blockchain technologies are actively studied by modern scientists. At the same time, significant attention is paid to the legal nature of digital assets, their classification, mechanisms of inheritance, and the transformation of civil legal norms in the digital environment.

Thus, H. Al-Ababneh, Y. Fedorchuk, A. Tymchyshyn, G. Pishchenko, and S. Hrytsai [1] investigate the use of big data to detect economic crimes in public procurement, which has an indirect impact on the security of digital transactions and potential risks in the inheritance of digital assets. A. Tymchyshyn and D. Tymchyshyn [2] analyze documents as procedural sources of evidence in criminal proceedings, which provides a methodological basis for ensuring evidentiary force in legal disputes regarding digital objects. D. Liushenko, R. Sharafan and O. Tuholukov [3] consider modeling the processes of inheritance of digital assets using blockchain technologies, emphasizing the importance of digital platforms for the secure transfer of rights. M. Vovk [4] investigates the features of legal regulation of inheritance of digital assets and intellectual property in the context of the development of blockchain technologies, drawing attention to the problems of applying traditional civil norms to digital objects. N. Fedosenko [5] analyzes digital assets as objects of civil rights, making an attempt to qualify them in the absence of a special legal regime. I. Huleykov [6] highlights digital assets as atypical objects of civil law, outlining the legal considerations that must be taken into account when transferring them as part of an inheritance. D. Syrota, V. Loktionova and A. Umanska [7] explore the legal possibility of inheriting cryptocurrency, emphasizing the specifics of digital wallets and heirs' access mechanisms. M. Larchenko and O. Tkach [8] highlight the issue of legal registration of the process of inheriting digital assets in domestic practice, emphasizing the role of regulatory regulation and procedural certainty. H. Tereshchenko and I. Kyrychenko [9] analyze the use of existing blockchain solutions to protect digital assets, assessing their practical effectiveness in transferring heirs' rights. R. G. Singh, A. Shrivastava and S. Ruj [10] propose a model of digital asset inheritance that ensures the transfer of online profiles after the user's death in order to guarantee the continuous and legitimate access of heirs to digital resources, their proper identification and protection of property interests in the digital environment by integrating technical and legal mechanisms. V. Zianko and T. Nechypurenko [11] analyze virtual assets through the prism of domestic practice, highlighting a risk-based approach and features of the implementation of international standards. I. Dondjio and A. Kazamias [12] develop a blockchain framework for the ownership and transfer of digital assets in inheritance, demonstrating the potential for automating and standardizing processes in an international context.

Identification of previously unresolved parts of the general problem. Despite active scientific discussion of the legal regime governing digital objects and their place in the civil rights system, a number of aspects of their inheritance in cross-border legal relations remain insufficiently studied. First of all, there is no agreed approach to determining the legal nature of digital assets as objects of inheritance, leading to different approaches to their qualification in national legal systems. The issues of determining the applicable law for the inheritance of digital assets, delimiting state jurisdiction, and the procedures for exercising inheritance rights in situations where digital resources are associated with infrastructure or entities located in different states remain insufficiently developed.

The reasons for the persistence of these gaps include the dynamic development of technology, the lack of unified international legal regulation of the legal status of digital objects, and the fragmentation of national legislation. A significant part of the research focuses on general issues in the digitalization of civil rights or on individual aspects of inheritance law, but does not provide a comprehensive analysis of the international dimension of the inheritance of digital assets. In addition, practical mechanisms for heirs' access to digital resources often remain outside the scope of legal analysis, thereby complicating the development of effective law enforcement practices.

The outlined aspects are fundamental to understanding the general problem, as without a clear definition of the legal status of digital assets and the mechanisms for their inheritance, it is impossible to ensure proper protection of the property

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rights of heirs in cross-border legal relations. Further study of the identified aspects will contribute to the formulation of agreed decisions on the application of the norms of inheritance and international private law, as well as to increased legal certainty in the field of inheritance of digital objects.

Formulation of the article objectives (statement of the task). The purpose of the article is a comprehensive study of the legal regulation of the inheritance of digital assets in cross-border inheritance legal relations, with the determination of the features of their legal status, mechanisms for the implementation of inheritance rights and ways to improve the relevant legal regulation.

To achieve this goal, the following specific tasks have been set:

1. To analyze the legal nature of digital assets as objects of inheritance and determine their characteristic features in the context of the civil law of Ukraine and international private law.

2. To identify the main problems of applying conflict of laws rules in cross-border inheritance legal relations related to digital objects and to investigate the practical mechanisms of heirs' access to digital resources and the features of the implementation of their rights in different legal systems.

3. To develop proposals for improving the legal regulation of the procedures for the inheritance of digital assets, in particular by harmonizing the norms of inheritance, civil procedural and international private law of different states, as well as increasing the legal certainty of the procedure for the transfer, access and implementation of rights to digital assets in inheritance legal relations.

The achievement of the set goals is aimed at the formation of theoretically sound and practically applicable approaches to the legal regulation of the inheritance of digital assets in cross-border legal relations, the determination of the scientific contribution to the development of inheritance and international private law, as well as the development of recommendations for improving law enforcement practice.

Presentation of the main material of the study. The regulation of the inheritance of digital assets in cross-border legal relations requires a systematic

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approach that combines the provisions of civil law, the norms of international private law and law enforcement practice. State legislation is primarily designed to regulate tangible objects, while digital resources, as intangible objects with special conditions of access and control, are not fully covered by existing legal mechanisms, which complicates their proper regulation. In the context of inheritance, the key is determining who is authorized to acquire rights to digital objects, as well as establishing procedures for their transfer to heirs in accordance with the norms of national and international law [3, p. 7]. At the same time, the lack of unified rules leads to conflicts and legal uncertainty, requiring detailed analysis and substantiated proposals to improve the legal framework.

To understand digital assets as objects of legal relations in the field of inheritance, it is important to determine their legal nature in accordance with current legislation. In modern legal science, digital assets are considered economic values that exist in the digital environment and can be the subject of civil rights. They include cryptocurrencies, tokens, digital accounts, access rights to digital services, electronic documents and other forms of information resources that have a property nature and can be the subject of rights to possession, use or disposal [4]. According to the Constitution of Ukraine [13], every person has the right to property and inheritance, which is a fundamental guarantee of the protection of property rights. There is still no special definition of digital assets in Ukrainian national legislation, while certain categories of digital objects, such as cryptocurrency, by their nature fall under property that can be the subject of inheritance in accordance with the general norms of civil law on property and inheritance [14]. However, the current Civil legislation (in particular, the Civil Code of Ukraine) does not contain separate rules on the legal regime of digital assets, leaving their legal status open and requiring scientific interpretation [15].

From the perspective of private international law [16], the inheritance of digital assets requires determining the applicable law and the competent jurisdiction, as digital assets may be associated with different legal systems depending on their

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storage, registration, or service location. Conflict of laws rules should provide for the resolution of issues related to the recognition and implementation of inheritance rights involving a foreign element, in particular when transferring property rights in digital assets to heirs.

Table 1 lists the main regulatory acts governing heirs' access to digital assets across different jurisdictions.

Table 1

Regulation of heirs' access to digital assets in different jurisdictions

Country / Jurisdiction	**Type of digital asset**	**Regulatory acts / Documents**
USA	Crypto wallets, social media accounts	US Civil Code, Uniform Probate Code, Art. 17
UK	Email and cloud service accounts	UK Administration of Estates Act 1925
Germany	Digital bank accounts, tokens	Bürgerliches Gesetzbuch (BGB), Art. 1922–2301
Israel	Crypto wallets, electronic services	Succession Law, 1965
Canada	Fintech platform accounts	Estates Act, Art. 18–25
EU (general)	Cloud services and digital tokens	Regulation (EU) No 650/2012 on international succession

Source: compiled by the author based on [17–22]

Digital assets differ from traditional objects of property rights by their intangible nature and dependence on electronic technologies. To ensure their inheritance, it is necessary to highlight the key characteristics that determine their eligibility for transfer to heirs, as well as the specifics of access and use. Table 2 provides a generalized characteristic of digital assets, which allows systematizing their features and examples in the context of inheritance relations.

Table 2

Key features of digital assets and their significance for inheritance

Digital asset designation	**Description and significance for inheritance**	**Examples of digital objects**
Intangibility	No physical form; affects access and inheritance procedures; determines the specifics of legal qualification	Cryptocurrencies, tokens, digital accounts
Economic value	Ability to bring material or financial benefit; allows including assets in inherited property and exercising property rights of heirs	Access rights to digital services, software

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		licenses, and electronic certificates
Dependence on technical access conditions	Access to assets is possible only through digital means (cryptographic keys, accounts); access restriction determines the procedure for implementing inheritance rights	Electronic documents, accounts in online services, and digital platforms

Source: compiled by the author based on [5–8]

The systematization of the characteristics of digital assets in Table 1 allows highlighting their key features that determine the specifics of inheritance. The intangible nature of digital assets means they do not exist in physical form, which affects the procedures for transfer and access: implementing inheritance rights requires the use of electronic means and cryptographic mechanisms, unlike with traditional material objects, which are physically transferred. The economic value of such assets determines their inclusion in the inheritance property and the possibility of realizing the property rights of the heirs, as they can generate financial benefits, such as access to licensed software or electronic certificates. Dependence on technical access conditions creates specific restrictions: access to digital assets is possible only through accounts, passwords, or private keys, which require a special procedure for the implementation of inheritance rights and additional procedures for identifying the heirs.

One of the most difficult problems in the field of cross-border inheritance of digital assets is the conflict of legal norms governing the determination of law, jurisdiction, and the application of procedures across different countries. The lack of a single classification of digital objects makes it difficult to determine which of them belong to the inherited property and, according to what rules, they should be transferred to the heirs. Practical difficulties also arise when ensuring heirs’ access to digital resources, since each platform or service uses its own authentication mechanisms and account management, and heirs often do not have direct control over access keys, passwords or tokens [9, p. 172]. At the same time, the implementation of heirs’ rights largely depends on the technical and organizational structure of digital services. In some jurisdictions, such as the USA and the UK,

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access to digital assets can be granted only through judicial procedures or with the participation of the platform administrator, which extends the consideration of inheritance cases and complicates the transfer of rights. At the same time, in countries with a flexible civil law system or with a developed practice of recognizing electronic rights, heirs can access assets more quickly, but they face the risk of incomplete or limited access due to technical limitations of platforms and services [10, p. 994]. Table 3 presents the main ways heirs can obtain digital assets across jurisdictions, along with the specific procedures for exercising property rights in each country.

Table 3

Features of digital asset inheritance in different jurisdictions

Country / Jurisdiction	Access mechanism	Features of the procedure	Technical and organizational limitations
USA	Digital Assets Executor (will)	An authorized person manages digital resources	Requires definition of executor, control over keys and passwords
UK	Court recognition of heirs' rights	Court confirms heirs' rights, platform provides access	Prolonged court proceedings, limited cooperation with platforms
Germany	Court power of attorney/notary certificate	The heir receives access by court decision	Platform administrator controls transfer, possible delays
Israel	Electronic certificate of inheritance rights	Confirmation of rights through a notary or court	Need for electronic confirmation of identity, restrictions on some platforms
Canada	Court decision or notarial power of attorney	Transfer of private keys or access to crypto storage	Risk of loss of keys, technical limitations of platforms
EU (general)	Coordination through the platform administrator	Recognition of the heir according to national rules	Different legal frameworks in the Member States, restrictions on access to tokens

Source: compiled by the author based on [17–22]

The data in Table 3 demonstrate the main ways in which heirs obtain digital assets in different jurisdictions, as well as the specific procedures and technical limitations that affect the exercise of inheritance rights. A comparative analysis shows that countries use different mechanisms to access digital resources. In the

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USA, heirs gain control through a Digital Assets Executor; in the UK, access is provided through judicial recognition of the rights of heirs; and in Germany and Canada, through a court order or a notarial certificate. In Israel, confirmation of rights is provided by an electronic certificate, and in EU countries, the transfer of digital assets is coordinated through a platform administrator in accordance with national rules. The variety of procedures in these jurisdictions indicates the lack of a unified system for regulating the inheritance of digital assets and the conflicting norms, making it difficult to determine the applicable law and competent jurisdiction. Heirs face the duration of access registration, the need to interact with platform administrators, and technical limitations, such as control over keys and passwords, as well as limited platform functionality. The use of court decisions, notarial orders, and electronic certification of rights enables the protection of heirs' property interests in the digital environment.

Different practices of implementing inheritance rights in individual countries emphasize the need to develop coordinated mechanisms that will help reduce the risks of loss of digital assets, effectively manage access to them and unify the procedure for implementing rights in cross-border legal relations, increasing legal certainty and stability in the field of inheritance of digital resources, which is of great importance for both heirs and platforms and law enforcement agencies.

As noted above, the features of organizing access to digital assets are determined by both national legal norms and platform internal rules. In some countries, the realization of heirs' rights involves lengthy court procedures or notarial confirmations, whereas in others, electronic means or direct administrative mechanisms are used, allowing the registration of rights without traditional judicial or notarial intervention. Technical limitations of platforms, including access controls via keys, passwords, or tokens, create additional difficulties for the timely and secure receipt of digital assets [12, p. 99]. Analysis of these features allows identifying specific access mechanisms across different jurisdictions and assessing their advantages and disadvantages, a necessary condition for improving the legal regulation of cross-border inheritance of digital assets, as well as for assessing the impact of legal and technical factors on the efficiency of the transfer of digital assets. Different ways of registering access, the involvement of judicial or notarial authorities and technical limitations of platforms indicate the need to improve procedures and establish more predictable and secure rules in cross-border inheritance legal relations.

To increase the efficiency of cross-border inheritance of digital assets, it is advisable to establish uniform criteria for determining the applicable law and competent jurisdiction in international inheritance cases, which will eliminate legal conflicts, make procedures more predictable for heirs, and determine the competences of courts and notary authorities in different states, reducing the time for registration of inheritance rights and reducing the risk of conflicts between the norms of different legal systems.

Systematizing procedures for accessing digital resources involves introducing standardized mechanisms to confirm the rights of heirs. The use of electronic request forms, as well as mechanisms for transferring keys, passwords, or tokens, will minimize technical and organizational risks, expedite procedures, and ensure the protection of property interests. Enshrining in legislation a clear status for digital assets, rules for their inheritance, and methods for exercising rights will increase legal certainty and unify judicial practice. At the same time, defining acceptable electronic evidence and procedures for confirming rights will enable the creation of effective mechanisms to resolve disputes and reduce denials of access to assets, especially in cross-border cases.

The development of methodological recommendations for judges, notaries, and platforms will ensure compliance with access rules and increase transparency of procedures. The creation of centralized electronic services or registries will enable monitoring of the status of inheritance processes and ensure the timely transfer of digital assets across jurisdictions. Comprehensive international cooperation among states will help harmonize procedures for registering heirs' rights, recognize judicial

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and administrative decisions confirming these rights, and establish uniform standards for the transfer of digital assets. The conclusion of bilateral and multilateral agreements between countries will allow for shorter asset transfer times and reduced impact of technical or organizational restrictions on the rights of heirs.

It is also important to ensure the continuous development of the competencies of lawyers, notaries, and judges in digital asset and access procedures through educational programs and roundtables. The implementation of methodological recommendations on asset classification, electronic confirmation of rights, and unified procedures will lay the foundation for effective, safe, and predictable inheritance of digital resources at the international level.

Conclusions. Analysis of approaches to the inheritance of digital assets shows that their legal nature is determined by their intangibility, economic value, and dependence on technical access methods, which complicates their inclusion in inherited property and the transfer of rights to heirs. The lack of uniform rules in national legislation and discrepancies in international practices create conflicts, lengthen the registration process for rights, and complicate the protection of heirs' interests. The participation of judicial and notarial bodies, as well as technical limitations of platforms, emphasizes the need for systematic regulation and coordination of procedures in cross-border legal relations.

Proposals for improving the regulation of rights to digital assets are substantiated, including standardizing procedures for confirming the rights of heirs, defining uniform criteria for classifying digital assets, and using electronic request forms and mechanisms for transferring access keys. The feasibility of enshrining the legal status of digital assets in legislation, developing methodological recommendations for notaries and judges, and strengthening international cooperation to unify procedures and increase the predictability and security of cross-border inheritance is indicated.

Further research can focus on developing electronic registers of digital assets, assessing the risks of loss or restriction of access to assets across different platforms,

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and developing international standards for the protection of inheritance rights. Such measures will ensure more reliable, efficient and predictable functioning of procedures in the field of international inheritance of digital resources.

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