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CRYPTOCURRENCY MARKET REGULATION IN THE EU: IMPLEMENTATION IN UKRAINE

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In the 21st century, the rapid advancement of digital technologies has significantly transformed the global financial system, introducing novel instruments for economic exchange and reshaping traditional conceptions of currency, property and financial services.

One of the most salient aspects of this transformation is the emergence of cryptocurrencies and various other types of digital assets. These innovations were facilitated by the integration of distributed ledger technology (DLT), algorithmic issuance, cryptographic protection, and decentralized governance mechanisms. The digital evolution of the economy, the adoption of financial technologies (FinTech), and increasing market globalization have fostered the development of a new segment – the crypto-asset market. This market operates beyond the traditional banking system while maintaining an active interplay with it. The contemporary cryptocurrency market is characterized by high volatility, rapid transaction speeds, global circulation, and a lack of centralized regulation[1]. These features pose significant risks to financial stability, as well as consumer and investor protection.

Furthermore, the decentralized nature of cryptocurrencies challenges state oversight, potentially facilitating their use in illicit activities. Under these circumstances, nations are compelled to devise novel regulatory frameworks that strike a balance between fostering innovation and ensuring robust security and protection within this dynamic sector.

[1] Dashko, I., Cherep, O., & Mykhailichenko, L. (2024). Peculiarities of cryptocurrency regulation in the European Union [Osoblyvosti rehuliuvannia kryptovaliut u Yevropeiskomu Soiuzi]. Galician Economic Journal [Halytskyi ekonomichnyi visnyk], 5(90), 7–15. https://doi.org/10.33108/galicianvisnyk_tntu2024.05. (In Ukrainian).

In this regard, the European Union has established one of the most structured and coherent approaches to the regulation of crypto-assets.

Initially, regulatory policy focused predominantly on security-oriented considerations. Specifically, extending the scope of Directive (EU) 2018/843 to virtual currency exchange service providers and custodial wallet providers marked the first step toward integrating crypto-assets into the EU legal sphere[2]. This facilitated the inclusion of cryptocurrencies in the financial monitoring system, which mandates compulsory customer identification (KYC) and the reporting of suspicious transactions. Nevertheless, this approach had inherent limitations, as it did not address fundamental issues concerning the legal status of crypto-assets as economic entities, the activities of token issuers, or comprehensive standards for service providers.

The adoption of Regulation (EU) 2023/1114 on Markets in Crypto-Assets (MiCA) in 2023 marked a significant milestone in establishing a comprehensive legal framework for the sector. For the first time, a unified legal model was introduced at the supranational level across all EU Member States, designed to ensure financial stability, safeguard investor rights, and foster a predictable regulatory environment for market participants. Crucially, this Regulation is directly applicable in all EU Member States, thereby mitigating the challenges arising from regulatory fragmentation and divergent national approaches[3].

A pivotal element of MiCA is the established classification of crypto-assets. The Regulation explicitly categorizes asset-referenced tokens (ARTs), e-money tokens (EMTs) and other crypto-assets, tailoring regulatory requirements to their specific functions. For instance, due to their potential impact on the financial system, ARTs are subject to rigorous reserve management controls, transparency obligations and stringent regulatory oversight. Conversely, EMTs are regulated based on their functional similarity to electronic payment instruments[4]. Such a framework demonstrates an in-depth understanding of the economic substance of various crypto-asset types and a commitment to achieving an optimal balance between regulatory rigor and the preservation of the industry's innovation potential.

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[2] European Parliament and Council of the European Union. (2018). Directive (EU) 2018/843 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist *financing*. Official Journal of the European Union, L 156/43.

[3] European Parliament and Council of the European Union. (2023). Regulation (EU) 2023/1114 on markets in crypto-assets (MiCA*)*. Official Journal of the European Union, L 150/40.

[4] Strilets, B. (2022). Current state and prospects for the legal regulation of cryptocurrencies in the European Union [Suchasnyi stan ta perspektyvy pravovoho rehuliuvannia kryptovaliut u Yevropeiskomu Soiuzi]. Actual Problems of Law [Aktualni problemy pravoznavstva], 2(30), 70–76. https://doi.org/10.35774/app2022.02.070. (In Ukrainian).

The MiCA Regulation (Markets in Crypto-Assets Regulation) mandates compulsory authorization for crypto-asset service providers (CASPs), specifically exchanges, custodial services, and trading platforms. The document establishes a requirement for the publication of a comprehensive white paper, which must encompass a detailed project description, a thorough risk assessment, and the specific terms and conditions of token issuance[5].

Furthermore, MiCA introduces a suite of mechanisms for safeguarding user assets, establishes corporate governance standards, mandates measures for the prevention of conflicts of interest, and delineates sanctions for non-compliance. Consequently, the European Union has developed a holistic regulatory framework that integrates transparency, accountability, and systemic oversight.

Within the context of international practice, three primary groups of nations can be distinguished based on the maturity of their regulatory frameworks for the cryptocurrency market.

The first group comprises nations with high regulatory maturity, where crypto-assets possess a clearly defined legal status as a distinct object of regulation. In these countries, the activities of market participants are licensed and subject to systemic oversight by state authorities. Following the adoption of MiCA, the European Union has also joined this group, with Sweden serving as a prominent example[6].

The second category includes countries with partial regulation of the cryptocurrency market. Within these jurisdictions, only specific aspects of crypto-asset operations are regulated, while a unified legal framework remains absent. In such instances, cryptocurrencies may be classified as financial or digital instruments without a harmonized approach to their supervision. Such states include Austria, Norway, Iceland, Finland, and Germany [7].

In Germany, cryptocurrency is classified as a financial instrument, a designation that dictates its legal status and regulatory framework. Notably, the process of creating or utilizing cryptocurrency as a means of payment does not require prior authorization. However, any commercial activities involving cryptocurrencies are subject to licensing under current legislation. It is worth emphasizing that Germany has established some of the most favorable conditions for the use of cryptocurrencies in settlements for goods and

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[5] European Commission. (2020). Proposal for a Regulation of the European Parliament and of the Council on Markets in Crypto-assets (COM/2020/593 final).

[6] Strilets, B. (2022). Current state and prospects for the legal regulation of cryptocurrencies in the European Union [Suchasnyi stan ta perspektyvy pravovoho rehuliuvannia kryptovaliut u Yevropeiskomu Soiuzi]. Actual Problems of Law [Aktualni problemy pravoznavstva], 2(30), 70–76. https://doi.org/10.35774/app2022.02.070. (In Ukrainian).

[7] Strilets, B. (2022). Current state and prospects for the legal regulation of cryptocurrencies in the European Union [Suchasnyi stan ta perspektyvy pravovoho rehuliuvannia kryptovaliut u Yevropeiskomu Soiuzi]. Actual Problems of Law [Aktualni problemy pravoznavstva], 2(30), 70–76. https://doi.org/10.35774/app2022.02.070. (In Ukrainian).

services. Such transactions are tax-exempt, and cryptocurrency is officially recognized as a legal means of payment within the country[8].

The third group comprises nations with weak or fragmented regulatory environments. These jurisdictions are characterized by legal uncertainty, which poses substantial risks to market participants. Examples of such countries include Italy and Ukraine [9].

Although Ukraine has long been categorized within this third group due to the absence of specialized legislation regarding crypto-assets, the adoption of the Law of Ukraine "On Virtual Assets" marked a pivotal step toward establishing a legal foundation for this sector. Under this Law, a virtual asset is defined as an intangible object of civil rights that possesses economic value and is represented in the form of electronic data[10].

At the same time, the full implementation of this legislative act remains contingent upon amendments to the Tax Code of Ukraine. Furthermore, the current legislative framework does not yet provide for a detailed classification of crypto-assets or a licensing process aligned with the standards established by MiCA. The adoption of European cryptocurrency regulatory standards represents a promising trajectory for Ukraine as part of its European integration course[11].

The harmonization of national legislation with European standards must encompass not only terminological adaptation but also the establishment of an effective institutional infrastructure to ensure adequate state oversight. This entails developing authorization procedures for crypto-asset service providers (CASPs), ensuring transparency in token issuance and creating robust financial monitoring mechanisms. Simultaneously, this process should be incremental, taking into account the particularities of the domestic legal landscape, economic conditions and the administrative capacity of regulatory authorities.

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[8] Strilets, B. (2022). Current state and prospects for the legal regulation of cryptocurrencies in the European Union [Suchasnyi stan ta perspektyvy pravovoho rehuliuvannia kryptovaliut u Yevropeiskomu Soiuzi]. Actual Problems of Law [Aktualni problemy pravoznavstva], 2(30), 70–76. https://doi.org/10.35774/app2022.02.070. (In Ukrainian).

[9] Strilets, B. (2022). Current state and prospects for the legal regulation of cryptocurrencies in the European Union [Suchasnyi stan ta perspektyvy pravovoho rehuliuvannia kryptovaliut u Yevropeiskomu Soiuzi]. Actual Problems of Law [Aktualni problemy pravoznavstva], 2(30), 70–76. https://doi.org/10.35774/app2022.02.070. (In Ukrainian).

[10] Verkhovna Rada of Ukraine. (2022). Law of Ukraine "On Virtual Assets" No. 2074-IX dated February 17, 2022 [Zakon Ukrainy "Pro virtualni aktyvy" No. 2074-IX vid 17 liutoho 2022 roku]. https://zakon.rada.gov.ua/laws/show/2074-20. (In Ukrainian)

[11] Ustymenko, V. A., & Polishchuk, N. Y. (2018). On the state of legal support of cryptocurrencies in Ukraine: Through the prism of foreign experience [Pro stan pravovoho zabezpechennia obihu kryptovaliut v Ukraini: pohliad kriz pryzmu zarubizhnoho dosvidu]. Economics and Law [Ekonomika ta pravo], 1(49), 60–67. https://doi.org/10.15407/econlaw.2018.01.060. (In Ukrainian).

The experience of the European Union convincingly demonstrates that the effective regulation of the cryptocurrency market is only achievable through a systemic, multi-tiered and balanced approach.

The experience of the European Union convincingly demonstrates that the effective regulation of the cryptocurrency market is only achievable through a systemic, multi-tiered, and balanced approach. This framework encompasses legal certainty, a clear institutional oversight structure, proportionate regulatory influence and support for innovative development. European practice illustrates that crypto-assets should be viewed not merely as a potential risk to financial stability or a speculative instrument, but as a vital component of the digital economy. Given an appropriate regulatory framework, they can be seamlessly integrated into the traditional financial system without compromising its resilience.

A comprehensive approach remains the key aspect, encompassing licensing, transparency, information disclosure, financial monitoring, and consumer protection. This facilitates the creation of a predictable legal framework that is conducive to bolstering market confidence. For Ukraine, the implementation of MiCA standards is not merely a technical and legal exercise but a strategically vital step. It constitutes a part of the broader process of harmonizing national legislation with the EU acquis and reflects the country's strategic course toward integration into the European community[12].

The unification of regulatory standards for crypto-assets will foster a transparent environment for the virtual asset market, mitigating legal uncertainty and ensuring robust protection for the rights of investors and users of digital financial instruments. Furthermore, this will bolster the confidence of international partners, financial institutions, and potential investors – a factor that is indispensable for the nation's post-war economic recovery. The adoption of MiCA standards also holds substantial potential for enhancing the institutional capacity of public administration, necessitating refined coordination between financial regulators, tax authorities and financial monitoring agencies.

Furthermore, the development of specialized monitoring tools for crypto-asset service providers (CASPs) will become essential. These measures will facilitate enhanced transparency of financial transactions, the advancement of a legal culture, and the establishment of a modern regulatory infrastructure capable of addressing the challenges of the digital era. Simultaneously, the implementation of European standards must account for the specificities of

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[12] Ustymenko, V. A., & Polishchuk, N. Y. (2018). On the state of legal support of cryptocurrencies in Ukraine: Through the prism of foreign experience [Pro stan pravovoho zabezpechennia obihu kryptovaliut v Ukraini: pohliad kriz pryzmu zarubizhnoho dosvidu]. Economics and Law [Ekonomika ta pravo], 1(49), 60–67. https://doi.org/10.15407/econlaw.2018.01.060. (In Ukrainian).

the Ukrainian context and the prevailing conditions of the national financial market.

The gradual nature of reforms, rigorous preparation of regulatory bodies and the professional community, and effective stakeholder engagement remain critical considerations. Only under these circumstances will the adoption of MiCA standards become not merely a formal transposition of regulations of norms and, but an effective mechanism for modernising the economy.

Consequently, it can be concluded that establishing a comprehensive regulatory framework for crypto-assets must become a priority within Ukraine's national digital transformation policy. This model must strike a balance between fostering innovation, development financial technologies, and safeguarding public interests. The successful implementation of these measures will facilitate the integration of the Ukrainian cryptocurrency market into the European economic area, bolster competitiveness of the national economy and ensure the country’s gradual alignment with the European Union’s unified legal and financial systems.