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# FINANCIAL AND LEGAL PRINCIPLES OF CRYPTOCURRENCY MARKET REGULATION

## ABSTRACT

The purpose of the article is to study the Ukrainian experience of financial and legal regulation of the cryptocurrency market. During the analysis, the role and significance of cryptocurrencies in the modern world was characterized. Models for countries around the world are built on the basis of the level of adoption of cryptocurrencies in the context of national policy. The meaning and characteristics of cryptocurrencies are revealed. Attention is focused on the problems of forming regulatory and normative needs in Ukrainian legislation. Systematized principles of legal support for taxation of transactions with cryptocurrency and prevention of the use of cryptocurrency for the purpose of legalizing income (money laundering). The trends of threats of cybercriminal content in cryptocurrency transactions are summarized and the main provisions of the government's plan to resolve the situation with cryptocurrency for 2023–2024 are defined. Ways to improve the legal support of the cryptocurrency industry in Ukraine are outlined. The reasons and significance of the popularization of cryptocurrencies in Ukraine are determined. In particular, it was determined that one of the main elements of financial support for the circulation of cryptocurrencies is the legal framework that regulates the interaction between the participants of the cryptocurrency market. Legislation should define rules and norms of conduct, requirements for security and confidentiality of personal data, liability for violations of rules and other aspects of cryptocurrency circulation. Planned ways of further development of the Ukrainian crypto industry and improvement of its regulatory and legal regulation. It is substantiated that the financial and legal support of cryptocurrency circulation should include mechanisms for the protection of consumer rights, such as mechanisms for insurance, dispute resolution, and conflict resolution between market participants. Such mechanisms can help ensure interaction between market participants, increase the level of trust and ensure market stability.

**Keywords:** cryptocurrency, financial security, Internet, cryptocurrency exchanges, economy, protection, assets

**JEL Classification:** I38, J17, J44, J53

## INTRODUCTION

The problem of cryptocurrency has now become quite a common phenomenon in the world, and Ukraine is no exception. Over the past few years, the Ukrainian government has made several important changes to the legislation in order to regulate the circulation of cryptocurrencies and ensure their financial and legal support. One of the key documents regulating the cryptocurrency market in Ukraine is the Law of Ukraine "On Currency and Currency Operations". It determines the legal status of cryptocurrencies and establishes the rules of their circulation. By law, cryptocurrencies are considered digital assets that can be used to exchange and store value. Moreover, in 2023, Ukraine also adopted the Law on Virtual Assets, which contains more detailed rules for cryptocurrencies and blockchain technology. The law defines the concept of virtual assets, regulates the procedures for their issuance and circulation, and also establishes the rules for conducting Initial Coin Offerings (ICOs) and Security Token Offerings (STO).

## LITERATURE REVIEW

For example, Mandych O., Mykytas A., Duyunova T., & Glushchenko C. identified the features of cryptocurrency in the e-commerce system and gave a comparative characteristic with other forms of electronic money, outlined the influencing factors and the possibilities of scenario modelling. The authors also confirmed that the current stage of the development of the digital economy, the evolution of money the informatization of economic systems and the spread of modern financial investment models in society contribute to increased attention to cryptocurrency and an increase in the volume of currency procedures. Pogribnyy D. I. examined the problems of determining the legal status of cryptocurrencies and modern approaches to the creation of economic and legal mechanisms for their regulation in Ukraine and determined that cryptocurrencies are a completely new phenomenon that arose as a result of the evolutionary development of electronic money. Teletakova A. and Ghenyuk I. analyzed the current state of legal regulation of cryptocurrency in Ukraine in the light of current legislation and foreign evidence and identified a number of practical problems that lead to the necessity of activation of state activity in the direction of legal regulation of cryptocurrency.

Based on the results obtained, V. Korneev substantiates the need to determine the legal status and procedure for using cryptocurrency as a form of electronic money, since the currently unregulated development of digital financial technologies poses significant threats to the financial stability and security of the state. Dewey Josias & Patel Samir if we talk about foreign colleagues, for example, Dewey Josias & Patel Samir claim that in the US there is also no single definition of "cryptocurrency", which is often called "virtual currency", "digital assets", "digital tokens", "crypto assets" or just "crypto". In addition to the mentioned scientists, the problem declared in the article was investigated by such scientists as A. Horbatenko, O. Dmytryk, V. Ivakhno, M. Kucheriavenko, A. Romanchuk, N. Savchuk, S. Tkalenko, A. Furman et al.

However, the study of the state of research of the scientific problem confirms that due attention was not paid to the study of the Ukrainian experience of financial and legal regulation of the cryptocurrency market. Therefore, on the basis of the conducted research, it was found that despite these legislative bills, there are still some problems and challenges regarding the financial and legal support for the circulation of cryptocurrencies in Ukraine in 2023. mainly include regulatory aspects: in Ukraine, the issue of comprehensive and clear regulation of the cryptocurrency market still needs to be resolved (it is necessary to establish control mechanisms over the activities of cryptocurrency platforms, determine responsibility for violations and establish dispute resolution procedures); tax regime: the lack of clear rules on the taxation of cryptocurrencies has led to confusion and ignoring the tax obligations of users and businesses engaged in cryptocurrency activities (clear tax rules and reporting mechanisms are needed); protection against abuse: cryptocurrencies can be used for illegal activities, such as money laundering, terrorist financing and other crimes (it is necessary to develop effective mechanisms to control and detect such abuses, including cooperation with international organizations); consumer protection. Cryptocurrency trading involves risks such as theft of funds, fraud and hacking. Mechanisms are needed to protect the rights of cryptocurrency consumers and compensate for losses in the event of their loss. This is only part of the issues facing the financial and legal provision of cryptocurrency circulation in Ukraine in 2023. Addressing these challenges requires a concerted effort by governments, regulators, cryptocurrency companies, and user communities to create a stable and secure environment for this market to thrive.

## AIMS AND OBJECTIVES

The purpose of the article is to determine the peculiarities of the Ukrainian experience of legislative provision of regulation and circulation of cryptocurrencies, formation based on their analysis of modern trends in the development of the crypto-industry of an innovative nature. To achieve this goal, it is necessary to perform a number of tasks related to solving the issue of comprehensive and clear regulation of the cryptocurrency market; with the expediency of implementing clear tax rules and reporting mechanisms; with the need to develop effective mechanisms for control and detection of cryptocurrency abuse, including the feasibility of cooperating with international organizations; with the need to develop mechanisms to protect the rights of cryptocurrency consumers and compensate for losses in the event of their loss.

## METHODS

To solve all aspects and dimensions of the scientific problem proposed in the article, the following research methods were used in particular: general scientific (in particular, an analysis of the stated topic in the available sources of modern researchers was carried out and their views on certain problematic aspects were synthesized, mostly in this context an analogy was made between similar judgments and the difference between them, a common denominator was derived using induction), theoretical and empirical (in particular, to establish the level of essence and objective regularity in the

researched subject and studied the problem field in the theory of the implementation of cryptocurrency in Ukraine), verification and refutation of hypothesis and theory, description, explanation, comparison, systematic and formal, generalization and systematization (in particular, to conduct a comparative analysis of the research approach in Ukrainian legal science and foreign experience regarding the implementation of the cryptocurrency market, the Ukrainian experience of implementing this problem is described, and the disadvantages and advantages of the cryptocurrency market in Ukrainian society are described).

## RESULTS

Cryptocurrency is a new type of digital asset that is not regulated by national banks and governments and has no physical form [1; 2, pp. 97–108; 3, p. 56–61]. Since cryptocurrencies are virtual and decentralized, their circulation requires special financial and legal support. For example, researcher Pogribnyy D. claimed that "Despite different approaches to defining the various features of cryptocurrencies, their common features are: 1) the absence of a centralized emission centre, that is, their decentralized nature; 2) anonymity of transaction participants - cryptographic methods of asymmetric data encryption using public and private keys are used in the network; 3) lack of real security (the value of cryptocurrencies is the result of the ratio of supply and demand for them among users). Thus, one should agree with the position that cryptocurrencies are a completely new economic and legal phenomenon different from traditional electronic money" [4, p. 107].

In general, cryptocurrency in Ukraine has both pros and cons. Here are some general pros and cons (Figure 1).

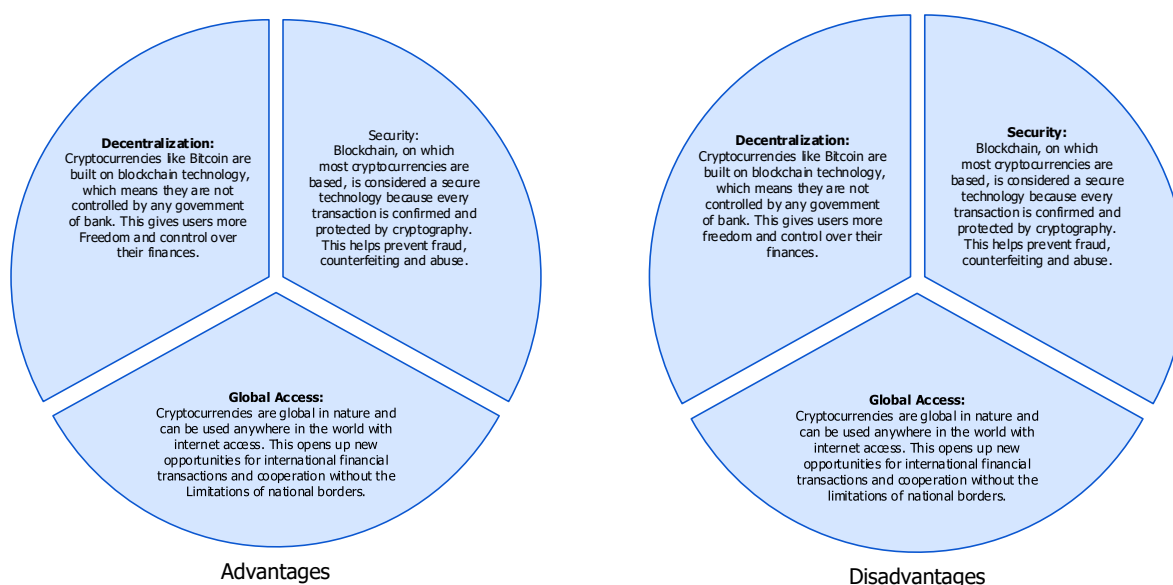


Figure 1. Advantages and disadvantages of cryptocurrency in Ukraine.

This is a general assessment of the advantages and disadvantages of cryptocurrency, at most - the situation may change over time. It is important to do your own research and consult with experts before making any decisions about using cryptocurrency.

One of the main elements of financial support for the circulation of cryptocurrencies is the legal framework that regulates the interaction between the participants of the cryptocurrency market. Legislation should define rules and norms of conduct, requirements for security and confidentiality of personal data, liability for violations of rules and other aspects of cryptocurrency circulation. For example, Makarchuk I., Perchuk O., Yaremenko L. and Stratan A., summarizing various definitions, propose to position cryptocurrency as a universal global means of payment, circulation and investment, which exists in the form of software code with a high degree of security and is characterized by a free market rate [5, p. 87–88]. In turn, such researchers as Gupta H., Chaudhary R. noted in their article: "Cryptocurrencies have gained a lot of attraction across the globe. Most observers of the cryptocurrency market will agree that crypto volatility is in a different league altogether" [6, p. 513].

Such researchers as Mandych O., Mykytas A., Duyunova T., & Glushchenko C., claim that: "Globalization of the processes of the market economy and the creation of financial and legal foundations for the development of the digital economy are

the basis for the formation of modern models of electronic commerce, in particular, digital cartographic currency. In recent years, the popularization and spread of cryptocurrency, which is an innovative payment instrument, necessitates the creation of competitive models and algorithms for attracting appropriate tools, as well as algorithmization taking into account the level of ability to effectively use certain assets. The expansion of the information space, digitalization, the peculiarities of the development of the cryptocurrency market and the level of readiness of international markets for new challenges of the evolution of money and the development of the world monetary system, in general, caused the inclusion of the Ukrainian economic system in the international environment. Thus, the adoption of relevant legislative acts and the creation of opportunities to ensure the competitive development of the cryptocurrency market in our country actualize the issue of analytical research of the theoretical basis and practical platforms with real results in order to outline the prospects of short- and long-term investment in cryptocurrency and the development opportunities of this financial instrument" [12, p. 62]. According to their belief, the cryptocurrency provision of the financial sector has a level of development, formally created through the tools of globalization of the financial market and the mechanisms of creating digital currency. Institutional mechanisms of the cryptocurrency market in Ukraine should create possible prerequisites for the further development of exchange activity and trading platforms, strengthening of international cooperation, consolidation of commercial efforts at the interstate level, and development of transformation scenarios for the functioning of the Ukrainian cryptocurrency market with appropriate financial and legal support. However, it should be noted that, in principle, the existing legal provision is not an obstacle to the development of the cryptocurrency market in Ukraine, but rather, an area for conducting further scientific research and developing an applied basis in legislation with the aim of developing effective recommendations and creating an integrated financial and legal mechanism the use of cryptocurrency and a successful cryptocurrency system.

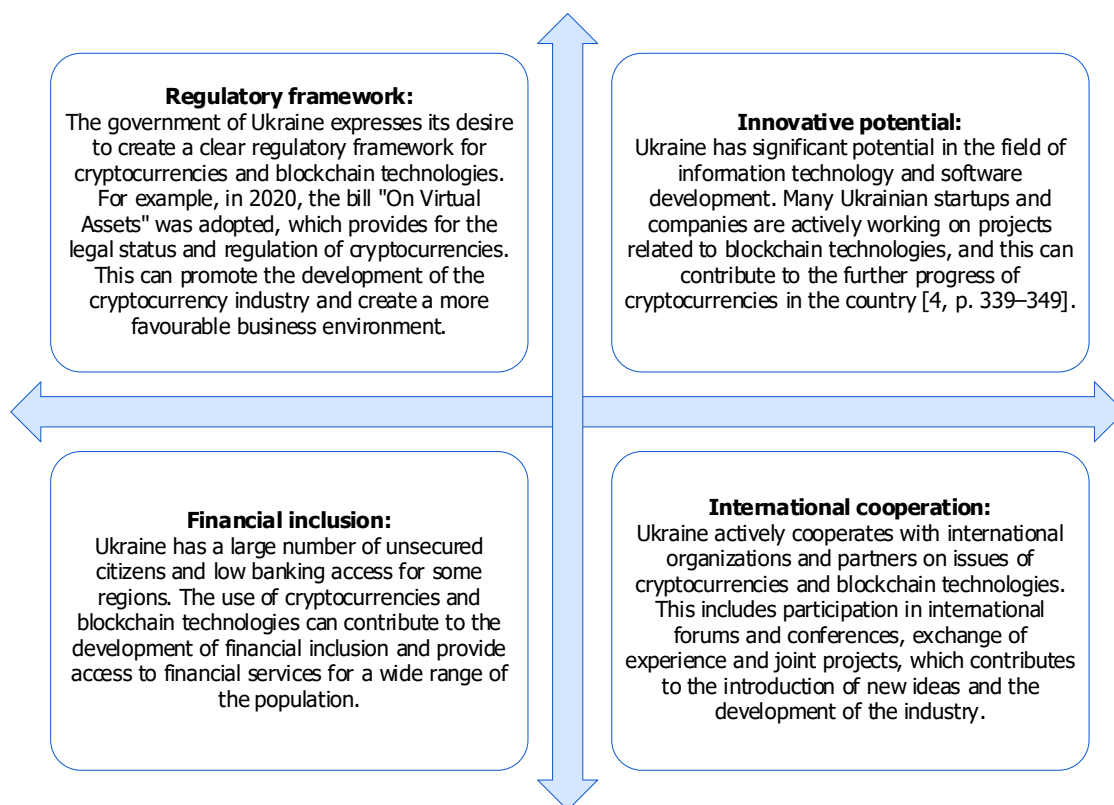
The second important factor is the financial regulation that needs to be established for the cryptocurrency market. This may include registration and licensing of cryptocurrency exchanges, exchangers and other market participants, restrictions on the circulation of cryptocurrencies to prevent financial crimes, and legalization of the proceeds of criminal activities.

The third element is the technical security of cryptocurrency circulation, which consists in protection against hacker attacks, viruses and other threats. This includes the protection of private keys, the use of secure cryptographic protocols and other measures [8, 67–72; 9, 341–344].

Finally, the financial and legal support of cryptocurrency circulation should include mechanisms for the protection of consumer rights, such as mechanisms for insurance, dispute resolution and conflict resolution between market participants. Such mechanisms can help ensure interaction between market participants, increase the level of trust and ensure market stability.

Legislation regulating the cryptocurrency market already exists in many countries around the world. For example, in the US, federal authorities set requirements for the registration and licensing of cryptocurrency exchanges and exchangers. Japan has passed legislation that defines cryptocurrencies as a legal form of payment and limits the ability to trade anonymously. In the European Union, the Financial Supervisory Commission has established rules that provide restrictions on the circulation of cryptocurrencies in order to prevent financial crimes and combat the legalization of proceeds from criminal activities. In addition, in many countries, there are initiatives to create national cryptocurrencies that are subject to regulation by national banks and governments. After all, the financial and legal support of the circulation of cryptocurrencies consists in the establishment of a legal basis, financial regulation and technical security of the cryptocurrency market, as well as in the protection of consumer rights and conflict resolution mechanisms. To ensure the stable and safe development of the cryptocurrency market, it is necessary to ensure cooperation between governments, regulators and market participants. For example, A. Telestakova and I. Hneniuk focus their attention on the need to activate the state's activities in the direction of legal regulation of cryptocurrency in Ukraine. In their opinion, there is a need for this, firstly, for payers of a single tax, which will enable the latter to accept payments directly in cryptocurrency; secondly, a clear legal regulation will allow participants of the cryptocurrency market to avoid opportunities for abuse and manipulation of concepts; thirdly, it will determine the legal status of cryptocurrency: whether it is an object of property rights, whether it is a means of payment, etc. [10, p. 209].

The legal regulation of the circulation of cryptocurrency on the Ukrainian market is quite weak, we all remember the adoption of the crypto law by the parliament during the war, but it is important not to forget that it has not yet entered into force, and therefore at the moment Ukraine does not have a single act that regulates crypto industry. Ukraine is showing significant interest in the development of cryptocurrencies and blockchain technologies, and there are some opportunities for progress in this area in the country. Figure 2 depicts the key factors that may contribute to the progress of cryptocurrencies in Ukraine.



**Figure 2. The key factors that may contribute to the progress of cryptocurrencies in Ukraine.**

However, it is important to note that the progress of cryptocurrencies in Ukraine also depends on many factors, such as the stability of the economic and political environment, regulatory decision-making, and the level of education and awareness among the population regarding cryptocurrencies. On the NAZK website, an explanation from December 30, 2021, regarding the declaration of intangible assets was provided. As for the courts, they use this explanation when making decisions, referring to the principle of analogy of the law, due to the fact that there is no corresponding law. An important point is that the decisions clearly state that the circulation of cryptocurrencies in Ukraine is legal and not prohibited. Because this determines the state's general approach to regulating the circulation of cryptocurrencies [11].

Recently, the National Bank of Ukraine introduced additional restrictions on international money transfers, including restrictions on transactions in cryptocurrency. The National Bank of Ukraine ordered a temporary ban on quasi-cash operations with hryvnia bank accounts, including the purchase of cryptocurrency. A limit of UAH 100,000 has also been established. for quasi-cash transactions and P2P transfers abroad with your own foreign currency. In this way, the state is trying to reduce the outflow of capital from the country under martial law. These changes are aimed at improving the situation on the foreign exchange market easing restrictions and reducing pressure on the gold and foreign exchange reserves of Ukraine [12].

What changes will occur after the new law comes into effect?

1. Cryptocurrencies will acquire the status of "licensed assets". This means that cryptocurrencies will not be used as a legal means of payment in Ukraine, that is, they will not be able to be exchanged or paid for goods in Ukraine.
2. The law stipulates that the minimum authorized capital of the stock exchange must be at least 35,000 for citizens with a tax-free minimum income for residents and at least 175,000 for non-residents.
3. An exhaustive list of types of exchange activities is also established: storage and management, exchange, transfer and mediation of virtual assets or their keys, traders will be able to exercise their right to court and other ways of protecting their rights [13].

Cryptocurrency by its very nature is a unique thing, which for the time being allows you to make your transfers more secure, that is, to avoid the risk of theft and fraud, but we should not forget about hacker attacks, if we talk about the present, we can say that protection against cyber-attacks is quite good, but judging by the statistics, sometimes hackers get their way, that is, they withdraw money from their accounts, this mostly happens because a person is quite frivolous



about storing his personal data, and when visiting sites with a bad reputation, he enters his data (passwords, logins, etc.), without thinking that third parties will receive them.

## DISCUSSION

In these difficult times, during the war, cryptocurrencies can also help us, because their main advantage is the free, fast and anonymous movement of money. Being able to avoid unnecessary bureaucratic procedures and restrictions of the banking system benefits charitable causes, especially when it comes to transferring money across borders. This made it possible to collect huge donations to support the Ukrainian military around the world from the first months of the war. Of course, this is far from the only fundraising tool, but it is a very powerful one.

According to the Ministry of Digital, this is thanks to the creation of official crypto wallets for transferring funds at the state level. Back in February 2022, the Ukrainian charitable organization Crypto Fund was created on the basis of the Kuna exchange together with the Ministry of Digital Transformation and the Ministry of Defense.

At first glance, when purchasing equipment for military or humanitarian purposes, the further use of such donations may cause difficulties, since not all market participants have the ability to pay in cryptocurrency.

Another advantage is that cryptocurrencies are more secure than traditional fiat accounts, preventing hacking and theft. However, cases of fraud under the guise of receiving charitable donations still occur from time to time. Therefore, you should carefully check the information and details. It is also important to remember that at the beginning of the Russian invasion, virtual assets became for many the only reliable means of storing their own funds. Uncertainty about the stability of the banking system and inflation lead to increased activity in the cryptocurrency market, which is a safe bet. Thus, in this war, cryptocurrencies perform three main tasks:

- fast, anonymous and cross-border collection tools for charity;
- ways to protect citizens' assets in the face of rising risks of inflation and the stability of the country's financial system;
- Reputational incentives: the establishment of mechanisms for attracting funds, and the creation of funds (including state funds) for the use of crypto-donations are positive features of Ukraine.

However, the legal regulation of cryptocurrency circulation still raises many questions.

There are three main concepts in the Ukrainian legal field:

- electronic money – as units of value stored in electronic form, issued by the issuer of electronic money for the performance of payment transactions, which are accepted as a means of payment by other persons and are a monetary obligation of such issuer of electronic money, in accordance with Clause 14, Part 1, Article 1 of the Law of Ukraine "On Payment Services" [14];
- digital money – an electronic form of a monetary unit of Ukraine, the issuer of which is the NBU, in accordance with Clause 96, Part 1, Article 1 of the Law of Ukraine "On Payment Services" [14; 15, p. 99];
- virtual assets – as intangible goods that are the object of civil rights, have a value and are expressed as a set of data in electronic form, in accordance with Clause 1 Part 1 of Article 1 of the Law of Ukraine "On Virtual Assets" [16; 17, pp. 137–148].

The question of the definition remains open, but most lawyers support the view that cryptocurrencies, digital tokens and NFTs are more likely to be virtual assets than electronic money. A separate attempt to solve this problem was made back in March 2022, which culminated in the adoption of the "Law on Virtual Assets" in Ukraine, which has not yet entered into force. Of course, it is impossible to completely transfer the economy of an entire state to cryptocurrency, but it is quite possible to bypass some sanctions restrictions. According to statistics from Chainalysis' 2022 Cryptocurrency Geography Report, there are some interesting statistics on cryptocurrency usage in Eastern Europe.

## CONCLUSIONS

The role of cryptocurrencies in Ukraine's struggle for freedom and independence is indeed important, but ambiguous. On the one hand, huge donations helped the Ukrainian military and victims, on the other hand, the lack of proper control allowed enemies to abuse virtual assets and find opportunities to launder money and circumvent sanctions. However, it is possible to introduce mechanisms to prevent illegal transactions using virtual assets, which should be reflected in the MiCA Law. In this regard, it is important to find a regulatory balance that does not contradict the essence of the blockchain, but

at the same time creates safeguards for the situation that the Ukrainian people are experiencing from the aggressor state of Russia. At most, it is expedient to state that the financial and legal support of cryptocurrency circulation should include mechanisms for the protection of consumer rights, such as mechanisms for insurance, dispute resolution, and conflict resolution between market participants. Such mechanisms can help ensure interaction between market participants, increase the level of trust and ensure market stability. In view of this, it was found that one of the main elements of the financial support of the circulation of cryptocurrencies is the legal framework that regulates the interaction between the participants of the cryptocurrency market, and therefore the national legislation should determine the rules and regulations, security requirements and limits of personal data confidentiality, establish responsibility for violations of these rules and take into account other aspects of the implementation of the cryptocurrency market.

## ADDITIONAL INFORMATION

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**Investigation:** Mariia Blikhar, Almagul Nurgaliyeva

**Visualization:** Ruslan Oleksiv

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## ФІНАНСОВО-ПРАВОВІ ЗАСАДИ РЕГУЛЮВАННЯ КРИПТОВАЛЮТНОГО РИНКУ

Мета роботи полягає в дослідженні українського досвіду фінансово-правового регулювання криптовалютного ринку. Під час проведеного аналізу охарактеризовано роль і значення криптовалют у сучасному світі. Моделі для країн світу будуються на основі рівня впровадження криптовалют у контексті національної політики. Розкрито значення та характеристики криптовалют. Акцентовано увагу на проблемах формування регуляторних нормативних потреб в українському законодавстві. Систематизовані принципи правового забезпечення оподаткування операцій із криптовалютою та запобігання використанню криптовалюти з метою легалізації доходів (відмивання коштів). Узагальнені тенденції загроз кіберзлочинного контенту в криптовалютних транзакціях і визначено основні положення урядового плану врегулювання ситуації з криптовалютою на 2023-2024 роки. Окреслено шляхи вдосконалення правового забезпечення криптовалютної галузі в Україні. Визначені причини та значення популяризації криптовалют в Україні. Зокрема, визначено, що одним із основних елементів фінансового забезпечення обігу криптовалют є нормативно-правова база, яка регулює взаємодію між учасниками ринку криптовалют. Законодавство має визначити правила та норми поведінки, вимоги безпеки й конфіденційності персональних даних, відповідальність за порушення правил та інші аспекти обігу криптовалют. Спроектвані шляхи подальшого розвитку української криптоіндустрії та вдосконалення її нормативно-правового врегулювання. Обґрунтовано, що фінансово-правове забезпечення криптовалютного обігу має включати механізми захисту прав споживачів, таких як механізми страхування, розгляду спорів та розв'язання конфліктів між учасниками ринку. Такі механізми можуть допомогти забезпечити взаємодію між учасниками ринку, підвищити рівень довіри та забезпечити стабільність ринку.

**Ключові слова:** криптовалюта, фінансове забезпечення, інтернет, захист, криптовалютні біржі, економіка, активи

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