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Legal regulation of cryptocurrencies in Europe: Challenges of harmonisation and development prospects

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■ **Abstract.** The study aimed to identify key challenges in the field of legislative harmonisation and to outline the prospects for developing cryptocurrencies in the European Union, the United Kingdom and Ukraine. The study used hermeneutical, comparative and historical methods. The study defined crypto asset, its concept and content, in particular, the types into which it is divided (asset-linked token, electronic money token, and service token). The study analysed cryptocurrency regulations in the jurisdictions of the European Union, the United Kingdom, and Ukraine. At the same time, the study addressed the trends and prospects for legal regulation of virtual assets in these countries. The study established that the fragmented regulatory approach applied in the UK has led to uncertainty, which has had a negative impact on innovation and investment in the cryptocurrency sector. The study revealed significant differences in the regulation of cryptocurrencies in different countries, which create substantial obstacles to the harmonisation of legislation and further development of the market. At the same time, there is a general tendency to tighten the regulation of cryptocurrencies to prevent their use for illegal activities, such as money laundering and terrorist financing, and to ensure investor protection. This study emphasises the importance of enacting the Law of Ukraine “On Virtual Services”, which will become the only legal act in Ukraine that will regulate relations in the field of crypto assets

■ **Keywords:** virtual assets; tokens; legislative harmonisation; regulatory act; illegal activity

■ Introduction

The growing popularity and widespread use of cryptocurrencies around the world necessitated effective mechanisms for their legal regulation. This need is particularly evident in Europe, where there is a significant diversity of legal systems and approaches to regulating cryptocurrencies. This situation poses serious challenges to the harmonisation of legislation in this area and ensuring the sustainable development of the cryptocurrency market. Therefore, there is a need to unify the legal rules governing cryptocurrencies at the European level. This is determined by the absence of uniform rules may have several negative consequences for the development of the cryptocurrency market and the financial system.

V. Benson *et al.* (2024), and C. Wronka (2023) highlighted that the heterogeneity of regulatory approaches in different European countries may lead

to fragmentation of the cryptocurrency market. This means that companies and investors will be forced to navigate different requirements and restrictions depending on the jurisdiction, which complicates business operations and may lead to the displacement of innovative projects to countries with more liberal regulations. The legal status of cryptocurrencies, their place in financial transactions, and the potential risks they pose to financial stability and investor protection continue to be the subject of active scientific debate and research. K.G. Nekit (2018), for instance, conducted an in-depth analysis of various global approaches to determining the legal status of cryptocurrencies. In addition, the study noted that the harmonisation of regulations would facilitate international cooperation and enhance the effectiveness of legal provisions aimed at regulating cryptocurrencies.

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A.M. Tarasyuk & V.A. Lazorenko (2024) focused on the potential use of cryptocurrencies as a new form of bills of exchange, which opens new prospects for their use in financial transactions, but at the same time raises the question of the need to adapt existing bills of exchange legislation. The authors determined that the introduction of cryptocurrencies into existing financial systems can improve the efficiency of payment services. However, this requires a thorough analysis of legislative and regulatory changes to ensure their stability and security. In particular, the study emphasised the importance of a comprehensive use of the opportunities and risks associated with crypto assets. R.C. Costin (2023) considered the issues of jurisdictional conflicts, the complexity of law enforcement, and the problem of too rapid changes in the cryptocurrency market compared to the stability of the legal framework. The author stressed how difficult it is to develop effective regulations that can properly address the risks associated with money laundering and fraud, as well as consumer protection in the cryptocurrency space. G. Soana (2024) analysed the effectiveness and problematic aspects of the European Union's anti-money laundering legislation. The study emphasised that although the adopted legal norms were aimed at increasing the level of transparency and tracking of cryptocurrency transactions, significant gaps remained in the application and compliance with the legislation (primarily concerning decentralised finance and self-organised wallets). G. Soana (2024) pointed out that the evolution of digital technologies is outpacing the development of the regulatory framework, which makes it difficult to combat financial crime. The author noted that a more flexible approach to legal regulation is needed to overcome these problems and prevent the use of crypto assets for illegal purposes.

Their research highlights the importance of establishing effective mechanisms to control the circulation of cryptocurrencies to prevent their use in illegal activities. Taken together, these studies demonstrated the complexity and multifaceted nature of the legal regulation of cryptocurrencies. They emphasised the need for a comprehensive approach that considers both the potential benefits of cryptocurrencies, and the risks associated with them. This included defining a clear legal status of cryptocurrencies, developing rules for their use in financial transactions, and establishing effective mechanisms for controlling and supervising this market.

However, despite a significant amount of research, there are still gaps in understanding the specifics of the legal regulation of cryptocurrencies in different European countries, as well as the challenges

and prospects for harmonising legislation in this area. Insufficient attention has been paid to a comparative analysis of regulatory approaches in the European Union, the United Kingdom and Ukraine, as well as to the issues of contributing virtual assets to the authorised capital of banks and the role of central banks in regulating the cryptocurrency market. Thus, S.D. Norton (2024) analysed the impact of the free banking concept, according to which the issuance of competitive currency is carried out by private institutions rather than central banks, on approaches to regulating cryptocurrencies. This study has shown that the implementation of the principles of free banking theory will increase the stability and efficiency of financial systems. It also provides insights into how to regulate digital currencies in a rapidly changing environment.

The purpose of this study was to determine the legal regulation of cryptocurrencies in the European Union, the United Kingdom and Ukraine, and to identify key challenges and prospects in legislative harmonisation. The primary objectives of the study were:

- 1) to analyse the legal acts regulating crypto assets in the EU, the UK and Ukraine;
- 2) to identify the main trends in legal regulation in the states;
- 3) to identify the challenges facing the creation of an effective legal framework for cryptocurrency.

■ Materials and Methods

To conduct a study on the legal regulation of crypto assets in Europe to identify the challenges of harmonisation and development prospects in Europe, the experience of the European Union as a whole and the experience of Ukraine and the United Kingdom separately were used. The choice of analysing the legislation of Ukraine and the United Kingdom was determined by these states are not EU members and are not subject to the binding nature of the EU treaties (despite Ukraine's status as a candidate for EU membership). To interpret the legal acts and analyse them, the hermeneutic method was used to study the concepts and content of crypto assets, asset reference tokens, service tokens, electronic money tokens, crypto asset exchange service providers, etc. Hermeneutics was used in the study to not only establish these definitions but also to consider them in the context of the broader legal discourse. This, in turn, made it possible to explore in more detail how these terms are used in different jurisdictions. Thus, during the research on national legal acts, the following legislative documents were studied and analysed: the Law of Ukraine "On Virtual Assets"¹, as well as the Draft Law on Amendments to the Tax Code of Ukraine and

¹ Law of Ukraine No. 2074-IX "On Virtual Assets". (2022, February). Retrieved from <https://zakon.rada.gov.ua/laws/show/2074-20#Text>.

Other Legislative Acts of Ukraine Regarding the Regulation of the Turnover of Virtual Assets in Ukraine¹.

However, the legal regulation of cryptocurrencies in Europe are primarily guided by international treaties, such as the Regulation of the European Parliament and of the Council No. 2023/1114² (MiCA), No. 2023/1113³; No. 2015/847⁴; No. 2018/1673⁵ (6AMLD); Financial Services and Markets Act 2023⁶ (FSMA); the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017⁷ (MLRs).

A comparative method was used to evaluate the existing definitions of crypto assets, as well as to identify common features and differences in the legal regulation of cryptocurrencies, and to identify key trends and challenges in this area. During the study of legal acts, they were compared with each other, especially concerning the definition of certain concepts (crypto assets), their tasks and objectives, and the purpose of certain legislation. A systematic comparison of Ukrainian and international legislation was conducted. In addition, this method made it possible to determine how different state approaches can influence the harmonisation process and impede it.

Among the general theoretical methods and research techniques, the historical method was central

to the study. It was used to trace the development of the regulatory framework in the field of cryptocurrencies in the European Union, the United Kingdom, and Ukraine. Awareness of this historical aspect was significant for assessing the effectiveness of existing regulations and the prospects for further development of cryptocurrency legislation.

■ Results

Legal regulation of cryptocurrencies in the EU.

The first comprehensive legal act regulating the cryptocurrency market in the European Union is the MiCA⁸. This document became effective on 29 June 2023, with Titles III and IV of the MiCA coming into force on 30 June 2024, while the full version is expected to enter into force on 30 December 2024. Since 30 June, it was established that any public offer or authorisation to trade in ART and EMT is subject to a strict control regime (The MiCa Regulation explained..., 2024). The MiCA was developed to consolidate the regulation of crypto assets at the EU level and to create a single, coherent legal framework for crypto asset owners and service providers that are not regulated by existing financial services regulations (Carata & Knottenbelt, 2024). Figure 1 shows in more detail the timeframe over which the MiCA provisions are being implemented.

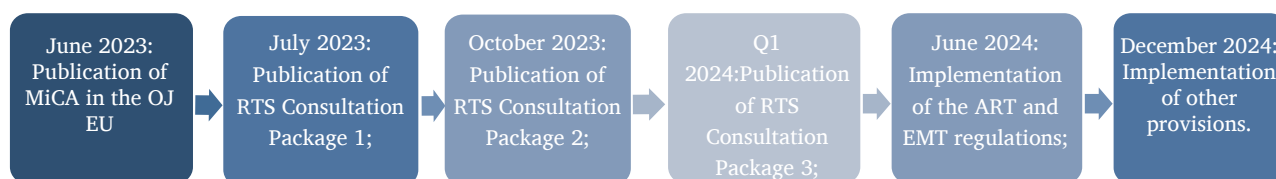


Figure 1. Periodicity of MiCA implementation

Source: compiled by the authors based on F. Windak (2024)

The main objectives of MiCA were: 1) to create a common legal act regulating cryptocurrencies at the EU level; 2) to promote fair trade, in particular by prohibiting insider trading or other ways of

¹ Draft Law of Ukraine No. 10225-1 “On Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine Regarding the Regulation of the Turnover of Virtual Assets in Ukraine”. (2023, November). Retrieved from <https://itd.rada.gov.ua/billinfo/Bills/Card/43232>.

² Regulation of the European Parliament and of the Council No. 2023/1114 “On Markets in Crypto-Assets, and Amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937”. (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1114/oj>.

³ Regulation of the European Parliament and of the Council No. 2023/1113 “On Information Accompanying Transfers of Funds and Certain Crypto-Assets and Amending Directive (EU) 2015/849”. (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1113/oj>.

⁴ Regulation of the European Parliament and of the Council No. 2015/847 “On Information Accompanying Transfers of Funds and Repealing Regulation (EC) No. 1781/2006”. (2015, May). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32015R0847>.

⁵ Directive of the European Parliament and of the Council No. 2018/1673 “On Combating Money Laundering by Criminal Law”. (2023, October). Retrieved from <https://eur-lex.europa.eu/eli/dir/2018/1673/oj>.

⁶ Financial Services and Markets Act of UK. (2023, June). Retrieved from <https://www.legislation.gov.uk/ukpga/2023/29/contents>.

⁷ Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations of UK. (2017, June). Retrieved from <https://www.legislation.gov.uk/uksi/2017/692/contents>.

⁸ Regulation of the European Parliament and of the Council No. 2023/1114 “On Markets in Crypto-Assets, and Amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937”. (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1114/oj>.

manipulating the cryptocurrency market; 3) to define the procedure for the functioning of the cryptocurrency market in areas not regulated by existing financial legislation; 4) to ensure the stability of the cryptocurrency market, in particular, the creation of reserve capital and liquidity by the issuer, which will help during market fluctuations; 5) to introduce clear and simple rules for cryptocurrency service providers and token holders; 6) to ensure that consumers of this market are informed, which will minimise the risks they may face; 7) to guarantee a transparent and secure cryptocurrency system to attract more market participants (The MiCa Regulation explained..., 2024; Micagni, 2024).

Part 5 of Article 3 of the MiCA¹ defines a crypto asset as an electronic representation of value or right that can be transferred and accumulated using distributed ledger technology or similar technologies in a digital format. In particular, this Article identifies the types of tokens regulated by this legal act, including: 1) an asset-referenced token (ART) is a type of crypto asset that is not related to electronic money tokens and is intended to maintain a stable market value. This is done through a link to another asset or right (or a combination thereof), including one or more official currencies (Article 3(6)). An example is Tether Gold, which maintains an inherent value relative to the value of gold; 2) e-money token (EMT), which aims to maintain a stable monetary value by using a link to one official currency (Article 3(7)). Examples of EMTs are USDT (Tether) and USDC (Circle), which maintain their value against the US dollar, and EURS (Statis), EURC (Circle) and EURT (Tether) against the euro (The MiCa Regulation explained..., 2024); 3) and a utility token, which serves solely to provide access to goods or services provided by their issuer (Article 3(9)). Examples include OMG (OMG network), and Siacoin (Sia network) (The MiCa Regulation explained..., 2024). In general, ART and EMT tokens are stable assets that are created to support a sustainable cryptocurrency market.

Important provisions of the MiCA² are related to the activities of crypto asset issuers and providers, which concern market transparency and consumer protection. The MiCA aims to introduce authorisation and comprehensive reporting in official

documents, as well as to create a strong governance system. This, in turn, is being done to help increase the level of trust in the cryptocurrency market in the EU and create a safe investment environment. In general, these legislative initiatives aim to reduce the risks associated with virtual assets and strengthen market stability (The EU markets in crypto assets..., 2024).

Another significant regulation in the field of cryptocurrency regulation is Regulation (EU) No. 2023/1113³. The main objective of the Regulation is to counteract offenders engaged in money laundering through crypto assets. Part 10 of Article 3 contains provisions defining the concept of transfer of crypto assets, which involves a transaction to move crypto assets from one distributed ledger, crypto asset account or other medium intended for storing these assets to another. Such an operation is performed by at least one provider acting on behalf of the sender or beneficiary, even if they are the same person.

This Regulation expands and supplements, particularly the direct inclusion of crypto asset transfers in regular payment services (Forthcoming new rules on..., 2023). The Regulation establishes strict reporting standards for cryptocurrency service providers, which are similar to those for conventional financial institutions. It aims to increase the level of transparency and traceability of financial transactions, as well as to contribute to the effective fight against financial crime (Halász, 2024). Article 10 of Regulation (EU) No. 2023/1113⁴ stipulates that intermediary payment service providers are responsible for storing the payment information received (regarding the payer and the recipient) during the transfer of funds. This increases the level of trust between the parties involved in these relationships and helps to attract new buyers and sellers of cryptocurrencies. Regarding Regulation No. 2015/847⁵, even though Article 1 of Regulation states that this document regulates the control of information concerning the payer and the recipient between whom funds are transferred in any currency, this provision does not include cryptocurrencies. Despite the absence of a specific rule on the place of a virtual asset in this Regulation, this concept is also not provided for in Article 3 of Regulation, which contains a list of basic definitions (as it

¹ Regulation of the European Parliament and of the Council No. 2023/1114 "On Markets in Crypto-Assets, and Amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937". (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1114/oj>.

² Ibidem, 2023.

³ Regulation of the European Parliament and of the Council No. 2023/1113 "On Information Accompanying Transfers of Funds and Certain Crypto-Assets and Amending Directive (EU) 2015/849". (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1113/oj>.

⁴ Ibidem, 2023.

⁵ Regulation of the European Parliament and of the Council No. 2015/847 "On Information Accompanying Transfers of Funds and Repealing Regulation (EC) No. 1781/2006". (2015, May). Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32015R0847>.

was in MiCA¹ and Regulation (EU) No. 2023/1113². However, this document is still important in the regulation of crypto assets, as it laid the groundwork for the control of financial transfers within the EU and became the basis for the creation of Regulation 2023/1113³.

The 6AMLD⁴ was developed to combat financial crime, which complemented the previous directive and established cybercrime as one of the crimes in the financial sector. In particular, the 6AMLD aims to address the offence of money laundering and to establish liability for its commission. Thus, Articles 5 (establishing fines for individuals) and 8 (sanctions for legal entities) of the Directive provide for sanctions for committing this crime. Under Article 8 of the 6AMLD, the sanctions are: deprivation of the possibility to use public funding, including tenders, grants and benefits; appointment of judicial supervision; inability to use public benefits or assistance; suspension from business activities; court-ordered liquidation procedure; termination of the operation of the facilities used in the commission of the offence. Thus, this legal act has strengthened the system of sanctions against money laundering and established stricter rules for its compliance. It also emphasised the need for cooperation between national and international financial control authorities. In general, the

legal regulation of the cryptocurrency market in the EU has undergone large-scale changes aimed at protecting consumer rights, increasing the transparency of financial transactions, monitoring the confidentiality of seller and buyer information, and ensuring the overall stability of the market. By developing the MiCA⁵, the European Union has laid the groundwork for creating a secure and transparent environment for crypto asset transactions.

Legal regulation of cryptocurrencies in the UK and Ukraine. Since the UK and Ukraine are not EU member states, their legislation is not binding on these countries, which in turn creates the need to develop effective legislation. In both countries, the legal regulation of virtual assets lags far behind that of the EU. However, despite the rapid development of cryptocurrencies, states are making efforts to create an effective consumer protection framework. Thus, the UK aims to create effective and extensive legislation in the field of crypto assets. This is primarily due to the need to close the gaps in the existing legislation regarding the absence of this currency in the UK financial regulations (as demonstrated by the collapse of Voyager Digital, FTX, and Celsius Network) (Vidal-Tomás *et al.*, 2023; Wood & Murray, 2024). Figure 2 shows a graph of the cryptocurrency market, which determined the moment of the FTX platform's collapse.

Market cap mayhem

The market cap of cryptocurrencies has recovered from the 2022 low it hit amid the collapse of FTX, but remains well below its 2021 high of nearly \$3 trillion.



Figure 2. Cryptocurrency market chart for the period 2020-2023

Source: H. Lang *et al.* (2023)

¹ Regulation of the European Parliament and of the Council No. 2023/1114 “On Markets in Crypto-Assets, and Amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937”. (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1114/oj>.

² Regulation of the European Parliament and of the Council No. 2023/1113 “On Information Accompanying Transfers of Funds and Certain Crypto-Assets and Amending Directive (EU) 2015/849”. (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1113/oj>.

³ Ibidem, 2023.

⁴ Directive of the European Parliament and of the Council No. 2018/1673 “On Combating Money Laundering by Criminal Law”. (2023, October). Retrieved from <https://eur-lex.europa.eu/eli/dir/2018/1673/oj>.

⁵ Regulation of the European Parliament and of the Council No. 2023/1114 “On Markets in Crypto-Assets, and Amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937”. (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1114/oj>.

Figure 2 shows the three main points of the graph that were crucial for the creation of effective crypto asset legislation: November 8, 2021 – the historical high of cryptocurrencies; May 8, 2022 – TerraUSD lost its peg to the dollar (which implies a loss of stability and the emergence of volatility); November 11, 2022 – FTX's bankruptcy filing. One of the main pieces of legislation relating to crypto assets in the UK is the FSMA¹, which is an updated version of the Financial Services and Markets Act 2000². Section 417 of the FSMA³ defines a crypto asset as any digital representation of value or contractual rights protected by cryptography that can be transferred, stored or sold electronically. In this case, such a representation uses a special technology that supports the registration or storage of data (in particular, distributed ledger technology). This statement is fully consistent with the definition in the MiCA⁴, but the peculiarity is that the UK government may make changes to this definition depending on the development of the virtual currency industry (Marshall *et al.*, 2023). According to the FSMA, crypto assets have been included in the definition of “investment” and are subject to a general prohibition on engaging in “controlled activities”. This applies to both investment management and the issuance of electronic money unless authorised by the Financial Conduct Authority (FCA) or exempted from FSMA 2000⁵ (Sulimierska & Sikorska, 2023; CMS expert guide to crypto regulation in..., 2024). While section 182 provides for the use of digital settlement assets (DSAs) for the regulation of stablecoins. Thus, DSAs are defined as electronic representations of value or rights used to settle payment obligations and are subject to regulatory oversight by the UK Treasury and the Bank of England.

Another legal act that is key in regulating the issue of crypto assets, in particular, the control of cryptocurrency service providers from the perspective of anti-money laundering, is the MLRs⁶. Part 2 of Chapter 1, Regulation 14(A) of the MLR provides that a crypto asset exchange service provider is a legal entity or individual that provides one or more services through its business activities. This includes if such a person acts as a developer or issuer of the relevant crypto assets, providing the following services: exchange or arrangement of crypto assets for money or vice versa; exchange, arrangement or agreement to

replace one crypto asset with another; operation of equipment that allows the exchange of cryptocurrency for money and vice versa through automated operations. At the same time, entities within the scope of MLR are responsible for implementing anti-money laundering measures. In particular, the UK has introduced the “travel rule”, under which businesses related to crypto assets are required to regularly collect, verify and transmit information on the movement of cryptocurrencies (CMS expert guide to crypto regulation in..., 2024).

The FCA has confirmed the next step in the implementation of its virtual asset policy, including a plan for 2024/2025 to introduce a special procedure to combat abuse in the crypto asset market. In addition, the FCA has adopted updated guidance on financial inducement on social media, including recommendations on cryptocurrency advertising (Staples & Asolo, 2024). In general, the UK's legal framework for regulating cryptocurrencies is not comprehensive enough, as it does not cover all types of cryptocurrencies or related transactions. However, given its withdrawal from the EU in 2020 and the absence of a regulatory framework on this issue, the United Kingdom quickly began to adjust the legislation.

Ukraine is similar in its policy to the UK, as it is also on the way to developing its approach to the legal regulation of cryptocurrencies. Ukraine does not have comprehensive legislation on cryptocurrencies, and in particular, the national legislation does not contain any provisions on this type of currency. In general, Ukrainian authorities started to support the crypto assets sphere not so long ago, for example, in 2014, the National Bank of Ukraine stated that the cryptocurrency Bitcoin has no real value and cannot be used as a means of payment for individuals and legal entities in Ukraine, as it does not comply with the national legislation of Ukraine (Galkevich, 2024). This statement was aimed at preventing possible illegal acts such as money laundering or other illegal financial transactions. However, given the rapid development of operations in the cryptocurrency market by Ukrainian citizens, the Government's goal was to create a legal framework that would effectively regulate this issue. In 2022, the Verkhovna Rada of Ukraine (VRU) adopted the Law of Ukraine “On Virtual Assets”⁷, which was aimed at regulating

¹ Financial Services and Markets Act of UK. (2023, June). Retrieved from <https://www.legislation.gov.uk/ukpga/2023/29/contents>.

² Financial Services and Markets Act of UK. (2000, June). Retrieved from <https://www.legislation.gov.uk/ukpga/2000/8/introduction>.

³ Financial Services and Markets Act of UK. (2023, June). Retrieved from <https://www.legislation.gov.uk/ukpga/2023/29/contents>.

⁴ Regulation of the European Parliament and of the Council No. 2023/1114 “On Markets in Crypto-Assets, and Amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937”. (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1114/oj>.

⁵ Financial Services and Markets Act of UK. (2000, June). Retrieved from <https://www.legislation.gov.uk/ukpga/2000/8/introduction>.

⁶ Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations of UK. (2017, June). Retrieved from <https://www.legislation.gov.uk/uksi/2017/692/contents>.

⁷ Law of Ukraine No. 2074-IX “On Virtual Assets”. (2022, February). Retrieved from <https://zakon.rada.gov.ua/laws/show/2074-20#Text>.

relations arising in the field of cryptocurrencies. This Law was to enter into force after the Draft Law¹ came into force (as of 2024, the law has the status of “being addressed in the committee”).

The adoption of the Law of Ukraine No. 2074-IX² is important for ensuring the regulation of cryptocurrencies in Ukraine, which will be a step towards creating a reliable and effective legal framework on this issue. Paragraph 1 of part 1 of Article 1 of the Law establishes the definition of a virtual asset, which is an object of civil rights and an intangible good subject to a value assessment and expressed electronically in the form of a data set. The virtual asset circulation system ensures the availability and circulation of this asset. Such an asset may be used to certify property rights, including the right to reclaim other objects of civil rights. Article 4 of the Law defines the legal status of virtual assets and establishes that the specifics of their circulation are specified in the Civil Code of Ukraine and this Law. Part 6 of this Article provides for two types of financial virtual assets: issued by a Ukrainian resident and backed by currency values; and backed by securities or their derivatives. Part 7 prohibits the use of crypto assets as a payment currency in Ukraine to exchange goods or services. Under Article 17 of the Law, the National Securities and Stock Market Commission and the National Bank of Ukraine will exercise control over virtual assets on behalf of the state. Their main task will be to carry out comprehensive measures to regulate, monitor and supervise the virtual asset market, regulate the activities of providers of these services, and prevent and combat offences and abuses in the virtual asset market.

This draft law outlines the main obligations and rights of cryptocurrency market participants, establishes licensing mechanisms that protect the interests of investors, and emphasises the need to comply with legal regulations. The adoption of this Law will lay the foundation for the further development of the crypto industry in Ukraine, as well as facilitate investment and integration into the international digital asset market. The Law of Ukraine “On Virtual Assets”³ will be the first in the country to officially define the status of crypto assets and other important

provisions on this issue.

Comparing cryptocurrency legislation in the UK and Ukraine, the UK has been much more successful in creating a legal framework in this area, while the Ukrainian government is delaying the introduction of a single legal act to regulate this currency. Thus, as of 2024, there is no regulatory act in Ukraine that controls the crypto industry market, which in turn increases the level of financial crime. However, given Ukraine’s status as a future EU candidate, there is an urgent need to harmonise legislation. Thus, the EU, the UK, and Ukraine demonstrate different approaches to establishing control over the crypto asset market. Thus, the EU has developed the MiCA⁴, which aims to create a harmonised regulatory space in all EU member states to regulate the crypto asset market. While in the UK, after leaving the EU, a more simplified version of the regulation was adopted, which is implemented through FSMA 2023⁵. This law has integrated crypto assets into the current financial legislation, but its provisions do not have the same universality as the MiCA. Meanwhile, Ukraine is developing its regulatory framework based on the Law of Ukraine No. 2074-IX⁶, which, once enacted, will legalise the circulation of cryptocurrencies. It will also appoint the National Securities and Stock Market Commission as the main regulatory authority. Ukraine’s approach focuses on encouraging innovation while at the same time implementing preventive measures to combat financial crime.

General trends and challenges in the field of cryptocurrencies. Increased regulation is one of the most notable trends in all three jurisdictions. This is manifested in the introduction of stricter customer identification, transaction monitoring and suspicious activity reporting requirements for cryptocurrency-related service providers. This approach reflects the growing awareness of the risks associated with the use of cryptocurrencies for illicit activities such as money laundering and terrorist financing (Asif & Unar, 2024). In addition, the increased regulation is aimed at providing greater investor protection (as stated in the Law of Ukraine No. 2074-IX⁷), especially considering the high volatility of cryptocurrencies and the risk of fraud in this market.

¹ Draft Law of Ukraine No. 10225-1 “On Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine Regarding the Regulation of the Turnover of Virtual Assets in Ukraine”. (2023, November). Retrieved from <https://itd.rada.gov.ua/billinfo/Bills/Card/43232>.

² Law of Ukraine No. 2074-IX “On Virtual Assets”. (2022, February). Retrieved from <https://zakon.rada.gov.ua/laws/show/2074-20#Text>.

³ Ibidem, 2022.

⁴ Regulation of the European Parliament and of the Council No. 2023/1114 “On Markets in Crypto-Assets, and Amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937”. (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1114/oj>.

⁵ Financial Services and Markets Act of UK. (2023, June). Retrieved from <https://www.legislation.gov.uk/ukpga/2023/29/contents>.

⁶ Law of Ukraine No. 2074-IX “On Virtual Assets”. (2022, February). Retrieved from <https://zakon.rada.gov.ua/laws/show/2074-20#Text>.

⁷ Ibidem, 2022.

The trend towards consistency, consumer protection, and innovation is evident in the legal regulation of crypto assets within the EU. The prerequisite for the implementation of MiCA¹ was the initiative of the European Commission in 2020, which was presented as part of a large-scale strategy in the field of digital finance. The impetus for this proposal was the need to fill the gaps in legislation that arose as a result of the dynamic growth of the cryptocurrency market. It was driven by the desire to ensure the most transparent environment for businesses and investors while protecting the interests of consumers without restricting technological progress (Conlon *et al.*, 2024). Another factor that influenced the creation of a unified legal framework was the collapse of cryptocurrency exchanges (in particular, the FTX exchange) (Wood & Murray, 2024), which undermined the financial stability of states (Crypto regulation..., 2022).

The dynamic pace of innovation in the field of cryptocurrencies indicates that state regulatory authorities should remain particularly vigilant and respond promptly to changes that go beyond the established norms (Divissenko, 2023). In general, EU legislation in the field of crypto assets regulation is transforming. This is accompanied by the adoption of the MiCA² as a comprehensive regulatory framework aimed at harmonising, protecting consumer rights and promoting innovation. As the legislative landscape changes, stakeholders must continue to adapt to the new realities. This will ensure that regulations are properly enforced without hindering economic growth in the changing digital asset environment. In particular, the full implementation of the MiCA will set a precedent for other countries seeking to implement effective cryptocurrency legislation. Meanwhile, the UK's crypto asset regulation is based on a gradual approach that identifies the areas with most risk. Given the growing popularity of stablecoins and the possible risks, the government has paid special attention to them. This initiative is aimed at realising the benefits of using stablecoins while minimising the possible risks arising from their use. One of the main trends in the UK cryptocurrency regulation is the focus on consumer protection and financial crime prevention. The FCA has established strict requirements for the promotion

of financial services, which stipulate that all activities related to crypto assets must be objective, transparent and not misleading (Ertan, 2023; Crypto assets in the UK..., 2024).

Despite significant progress in the regulation of crypto assets, there are still gaps in the regulation of certain types of cryptocurrencies, in particular, non-fungible tokens (NFTs) and unregulated tokens. The presence of these gaps, in turn, causes uncertainty in the activities of individuals and legal entities operating in this area (Sullivan *et al.*, 2024). In general, the trends in the regulation of virtual assets in the UK demonstrate an orientation towards the formation of a holistic legal framework focused on both consumer protection and the development of the cryptocurrency industry. With the development of the FSMA (2023) and a phased approach focusing on high-risk areas such as stablecoins, the country is actively developing and striving to create an effective legal framework.

The legal regulation of crypto assets in Ukraine is in an uncertain state, particularly the Law of Ukraine "On Virtual Assets"³, which was adopted by the VRU in 2022 and has not entered into force as of November 2024. Despite the significant success in drafting the Law and its approval, there was a problem with its immediate implementation due to the martial law in Ukraine. In 2023, the Draft Law on Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine⁴ was submitted (Tuban, 2023). These innovations are aimed at simplifying regulatory procedures for businesses involved in transactions with virtual assets. These laws will help to create transparency in the digital economy and attract investment by defining the status of cryptocurrencies and tax liabilities (What is known about the legalisation of..., 2023). Trends in the regulation of cryptocurrencies in Ukraine in 2022-2024 indicate significant changes in the creation of a comprehensive legal framework. Such a framework can simultaneously promote innovation, protect consumer rights and harmonise legislation with international standards. A key moment in the formation of the cryptocurrency market was the adoption of the Law of Ukraine No. 2074-IX⁵, which launched the process of establishing legal regulation of this market.

¹ Regulation of the European Parliament and of the Council No. 2023/1114 "On Markets in Crypto-Assets, and Amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937". (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1114/oj>.

² Ibidem, 2023.

³ Law of Ukraine No. 2074-IX "On Virtual Assets". (2022, February). Retrieved from <https://zakon.rada.gov.ua/laws/show/2074-20#Text>.

⁴ Draft Law of Ukraine No. 10225-1 "On Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine Regarding the Regulation of the Turnover of Virtual Assets in Ukraine". (2023, November). Retrieved from <https://itd.rada.gov.ua/billinfo/Bills/Card/43232>.

⁵ Law of Ukraine No. 2074-IX "On Virtual Assets". (2022, February). Retrieved from <https://zakon.rada.gov.ua/laws/show/2074-20#Text>.

In the context of the rapid development of the cryptocurrency market and related technologies, one of the key challenges for regulators is to ensure that legal regulations are technologically neutral. This means that legislation should be sufficiently flexible and adaptable so as not to impede the introduction and development of new cryptocurrency technologies, but rather to facilitate their integration into the financial system. Too strict or outdated regulations can lead to negative consequences for the development of the cryptocurrency industry (Frediani, 2024).

First, it may create artificial barriers to entry for new companies and projects, limiting competition and innovation. Secondly, it may cause innovative projects to be displaced to other jurisdictions with a more favourable regulatory environment, which will negatively affect the economic development and investment attractiveness of the country. An example of such a situation is the overly strict regulation of ICOs (Initial Coin Offerings), particularly in China. For instance, in 2017, the Chinese government banned ICOs because it considered them a threat to the financial state of the state, while the Chinese central bank considered ICOs to be a suspicious activity involved in crime or fraud (Bellavitis *et al.*, 2021; ICO regulations..., 2024). This not only deprived China (and other countries in similar circumstances, such as South Korea) of potential investment and jobs, but also made it more difficult to monitor the activities of these projects and protect investors (Hu, 2024). For example, N. Kshetri (2023) noted that such a ban and strict restrictions on ICOs create obstacles to innovation and stimulate competition between companies seeking to enter the market. S.D. Howell *et al.* (2019) shared the same opinion.

Another important aspect is the need to strike a balance between regulation and innovation. On the one hand, regulation is necessary to ensure financial stability, protect investors and combat illegal activities such as money laundering and terrorist financing. On the other hand, excessive regulation can stifle innovation and impede market development, limiting the ability to create new products and services that can benefit society. Thus, ensuring effective international cooperation in the regulation of cryptocurrencies is critical to the successful development of this market. The absence of agreed international standards leads to regulatory arbitrage, with companies and investors choosing jurisdictions with the least stringent requirements (e.g., Singapore and Hong Kong, which, unlike China, have relaxed requirements) (Singapore and Hong Kong..., 2024; Uzogbo *et al.*, 2024). This not only undermines the efforts

of individual countries to combat money laundering and terrorist financing but also poses risks to financial stability at the global level. An example of such a country is India, as the state has lost cryptocurrency companies by setting too strict rules. This led to the fact that these companies moved to the territory of another state, which made it much more difficult for the Indian government to regulate money laundering regulations (Shine, 2024).

Therefore, it is necessary to develop international cooperation and coordination in the field of cryptocurrency regulation to ensure an effective and balanced regulatory environment at the global level. This may include the exchange of information and experience between regulators from different countries, the development of common standards and approaches to regulation, and the creation of mechanisms for joint monitoring and control of the cryptocurrency market. An example of successful international cooperation was the exchange of information and experience between central banks of different countries on the development and implementation of Central bank digital currency – initial considerations (2024). Such cooperation helped to increase the level of financial inclusion and efficiency of settlement mechanisms. This, in turn, minimised risks in the cryptocurrency market in countries and strengthened economic stability.

■ Discussion

The legal regulation of cryptocurrencies in Europe has made significant progress since the adoption of the MiCA¹. Its overall goal is to ensure the harmonisation of regulations across EU member states, provide transparency and security to cryptocurrency-related service providers, and protect consumer rights. The UK, on the other hand, has chosen a more fragmented approach to regulation, which has led to uncertainty that hinders the development of innovations in the cryptocurrency sector. At the same time, Ukraine seeks to introduce a national legal framework for virtual assets, using the experience of both European and global practices and standards. However, the issue of legislative consistency and the need to ensure proper state control remain relevant. In particular, the development of the regulatory framework will play a crucial role in determining the future environment for e-finance. However, specific regulatory approaches differ from country to country. The European Union seeks to harmonise legislation and create a single market for crypto assets, which should promote innovation and ensure a high level of investor protection. This approach is supported by many researchers who

¹ Regulation of the European Parliament and of the Council No. 2023/1114 “On Markets in Crypto-Assets, and Amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937”. (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1114/oj>.

point out the importance of unifying regulatory norms for the effective functioning of the cryptocurrency market in Europe. S. Daskalova & D. Kumanov (2024) emphasised that the fragmented regulatory landscape in Europe creates uncertainty for businesses and investors, complicates cross-border transactions, and may lead to the displacement of innovative projects to jurisdictions with more liberal regulation.

Comparing this study with the study by S. Daskalova & D. Kumanov (2024), similar results regarding the importance and necessity of regulatory consolidation to reduce uncertainty for businesses and investors were drawn. However, this study focuses on this importance on consumer protection, while their study puts more emphasis on investors. There was also a commonality regarding the negative impact of a fragmented regulatory landscape, which highlighted the importance of holistic legal regulation in promoting a safe and competitive environment for cryptocurrency markets. Thus, reducing the risks associated with regulatory arbitrage and strengthening the overall integrity of the market. A. Mishra (2024), analysing global trends in the regulation of cryptocurrencies, also emphasised the importance of harmonisation and the creation of a single legal framework that will facilitate the development of the cryptocurrency industry and provide legal certainty for all market participants. In particular, the author noted that although cryptocurrencies have become a new type of capital, their legal status remains unclear in many countries, which has led to regulatory uncertainty. The Article emphasises the need for a coherent and comprehensive regulatory framework to combat financial crimes and ensure the stable development of cryptocurrencies. Both studies emphasise the urgent need to harmonise regulatory aspects to provide legal certainty for cryptocurrency industry players and facilitate market development. However, the statement of A. Mishra's (2024) assertion regarding the importance of creating a coherent legal framework to combat financial crime reflects more global issues than those identified in this study, concerning the EU MiCA regulation¹ and its focus on anti-money laundering. While A. Mishra looked at the global regulatory uncertainty situation, this study went more in-depth to examine specific regional issues and trends. In particular, the fragmented regulatory landscape in the UK compared to the more coherent regulatory framework in the EU.

T. Burgess (2024) highlighted the complexity of regulating cryptocurrencies in a multi-jurisdictional

environment where the lack of global standards can lead to regulatory arbitrage. Companies and investors may choose jurisdictions with less stringent requirements, making it more difficult to fight financial crime and posing risks to financial stability. Overall, both studies found that there are problems associated with the lack of international standards that are common to all countries. This absence may lead to regulatory arbitrage, as businesses engaged in cryptocurrency activities tend to choose the jurisdiction of a state that has less stringent regulations. This, in turn, hinders economic stability and the fight against crime.

The issue of contributing virtual assets to the authorised capital of banks is subject to mixed opinions. In most EU countries, this is either prohibited or significantly restricted due to the risks associated with the volatility of cryptocurrencies and their potential use in illegal activities. At the same time, the experience of Switzerland, where banks are allowed to include certain types of cryptocurrencies in their assets subject to strict requirements, demonstrates the possibility of integrating cryptocurrencies into the banking system². This is confirmed by M.X. Caetano *et al.* (2024), highlighting the need to address the impact of cryptocurrencies on centralised financial institutions and develop appropriate regulatory mechanisms. The authors noted that the integration of cryptocurrencies into the banking system could lead to significant changes in banks' business models, operational processes, and risk management. The study also emphasises that the rapid increase in demand for cryptocurrencies is creating uncertainty in traditional financial systems, necessitating the modernisation of legislation. M.X. Caetano *et al.* (2024), along with this study, pointed to the need to develop appropriate regulations to address the transformational impact of cryptocurrencies on banking systems. Both studies emphasise the fact that there is uncertainty about cryptocurrencies (in particular, their status) in state regulation. This establishes the need to adapt state regulations following international standards and regulations.

The state regulation of the cryptocurrency market in Europe is carried out at different levels and using different instruments. In the EU, the European Central Bank and the European Commission are central, while in the UK and Ukraine, the main regulators are national financial institutions. This demonstrates the importance of cooperation and coordination between different regulators to ensure effective control over the cryptocurrency market. The results are consistent

¹ Regulation of the European Parliament and of the Council No. 2023/1114 "On Markets in Crypto-Assets, and Amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937". (2023, May). Retrieved from <https://eur-lex.europa.eu/eli/reg/2023/1114/oj>.

² Swiss Federal Act on Banks and Savings Banks. (1934, November). Retrieved from <https://assets.kpmg.com/content/dam/kpmgsites/ch/pdf/ch-banking-act-en.pdf>.

with the findings of C. Wronka (2024), emphasising the importance and necessity of harmonising regulations. In particular, C. Wronka (2024) noted that effective regulation of the cryptocurrency market requires close cooperation between central banks, financial regulators and other government agencies responsible for combating financial crime and investor protection. A study by H.L. Ba & Ö.Ş. Şen (2024) identified that the variability in national approaches to cryptocurrency regulation can be explained by various political and economic factors, such as the level of financial sector development, the degree of integration into the global economy, and the political orientation of the government. In particular, the researchers determined that countries with developed financial sectors and advanced economies tend to impose stricter regulations than those in other countries. Overall, their study provides an analysis of the complex interaction of national and international aspects in the formation of cryptocurrency legislation, which affects the global emerging economy and has implications for the global political economy. This study is consistent with the research by H.L. Ba & Ö.Ş. Şen (2024) on the existing differences in the legal frameworks of the EU, the UK and Ukraine, reflecting their unique political and economic aspects. They emphasise the complexity of the interaction between national and international factors in developing a coherent legal framework for crypto assets.

The study determined that legal regulation of cryptocurrencies in the EU, the UK and Ukraine faces several challenges that require a systematic and comprehensive approach. Adaptation of regulations is a key factor in ensuring the security and transparency of the crypto asset market, as well as the protection of consumer and investor rights. At the same time, it is necessary to address the political and economic peculiarities of individual countries, which influence the formation of the regulatory framework.

■ Conclusions

The study analysed the legal regulation of crypto assets in the European Union, the United Kingdom and Ukraine. This identified both common trends related to the need to combat money laundering and terrorist financing and significant differences in the approaches of these jurisdictions. The study determined that a crypto asset is a type of digital asset that involves the use of encryption to ensure security and operates based on blockchain technology. Harmonisation of the regulatory framework is important to promote innovation and simultaneously ensure consumer protection and financial stability.

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The goal of this harmonisation is to create a single legal framework that will ensure consistency across jurisdictions, which will reduce uncertainty for businesses and investors.

The study determined that the EU is committed to harmonising legislation and creating a single market for crypto assets, with the development of the MiCA designed to enhance transparency and security for crypto asset service providers and consumer protection. However, there are challenges in jurisdictions such as the UK, where a fragmented regulatory approach has led to uncertainty regarding the legal regulation of innovation and investment in the cryptocurrency market. Ukraine is creating more flexible legislation, considering the experience of other countries (in particular, the EU experience), which will allow for effective legal regulation of crypto assets. Compared to Ukraine, both countries need to harmonise regulations to create a safe environment for attracting investment and innovation in the cryptocurrency market.

The study highlighted that while the EU's approach is to create a unified market for crypto assets, differences in regulation in individual countries can lead to regulatory arbitrage, in which businesses choose jurisdictions with more favourable regulation. Overall, a comprehensive regulatory framework is needed that not only responds to the current challenges but also anticipates future developments in the rapidly evolving cryptocurrency space. As countries struggle with these challenges, cooperation between regulators at both the national and international levels is essential to create a safe and effective legal environment for cryptocurrency transactions. Further development of legislation in this area will significantly affect the prospects for digital finance, as well as the perception and use of cryptocurrencies in the economic space in general. The study is limited to the analysis of three jurisdictions: the EU, the UK, and Ukraine, which cannot be used to conclude on global trends in cryptocurrency regulation. Further research could be aimed at expanding the geographical coverage of the analysis, including more quantitative indicators to assess the development of cryptocurrency infrastructure, as well as a detailed study of cryptocurrency taxation in different jurisdictions.

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■ Conflict of Interest

The author of this study declares no conflict of interest.

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Правове регулювання криптовалют у Європі: проблеми гармонізації та перспективи розвитку

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■ **Анотація.** Метою дослідження було виявлення ключових проблем у сфері гармонізації законодавства й окреслення перспектив розвитку криптовалют у Європейському Союзі, Великій Британії та Україні. У дослідженні використано герменевтичний, порівняльний та історичний методи. Визначено поняття криптоактиву, його сутність і зміст, зокрема види (токен, пов'язаний з активом, токен електронних грошей і токен послуг). У дослідженні проаналізовано регулювання криптовалют у юрисдикціях Європейського Союзу, Великої Британії та України. Водночас розглянуто тенденції та перспективи правового регулювання віртуальних активів у цих країнах. Встановлено, що фрагментарний підхід до регулювання, який застосовують у Великій Британії, призвів до невизначеності, що негативно позначилося на інноваціях та інвестиціях у криптовалютному секторі. Виявлено істотні відмінності в регулюванні криптовалют у різних країнах, які створюють суттєві перешкоди для гармонізації законодавства й подальшого розвитку ринку. Водночас загальною є тенденція до посилення регулювання криптовалют з метою запобігання їх використанню для незаконної діяльності, такої як відмивання коштів і фінансування тероризму, а також для забезпечення захисту інвесторів. Дослідження засвідчує важливість прийняття Закону України «Про віртуальні послуги», який стане єдиним нормативно-правовим актом у державі, що регулюватиме відносини у сфері криптоактивів

■ **Ключові слова:** віртуальні активи; токени; гармонізація законодавства; нормативно-правовий акт; незаконна діяльність