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Comprehensive measures are being implemented in our country for the active development of the digital economy, the widespread introduction of modern information and communication technologies in all sectors and spheres, primarily in public administration, education, healthcare and agriculture.

In particular, the implementation of more than 220 priority projects aimed at improving the e-government system, further development of the local market of software products and information technologies, organization of IT parks in all regions of the republic, as well as providing the industry with qualified personnel has begun.

## SCIENTIFIC, THEORETICAL AND PRACTICAL FOUNDATIONS OF THE IMPLEMENTATION OF DIGITAL RIGHTS IN CIVIL LAW

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## ABSTRACT

*The article is devoted to civil law ways of protecting digital rights, since it is the new digital technologies that create a completely technological environment for the legal system as a whole. Digital technologies dictate their own conditions to which it is necessary to adapt legal institutions, including institutions of civil law, regulation of civil turnover.*

*The development of the post-industrial world implies a rapid increase in the number of digital assets. However, modern methods of their protection force us to doubt their effectiveness. The reason for this is the lack of understanding of the nature of protected objects.*

*The relevance of this work lies precisely in drawing attention to the uniqueness of each digital asset and the need for special means of protection.*

Based on the proposal of the Ministry for the Development of Information Technologies and Communications, it was established to approve a list of information systems and resources of state and economic management bodies that will be placed in the data processing center of the electronic government system and systematically monitor their activities based on this list [1].

The constitutional right to freedom of information with its separate detailed constitutional and legal norms and other normative acts is a solid foundation of digital human rights. Among them: all state bodies, public associations and officials of the Republic of Uzbekistan must provide



citizens with the opportunity to familiarize themselves with documents, decisions and other materials affecting their rights and interests (Article 30); the mass media are free and act in accordance with the law. They are responsible for the accuracy of the information in accordance with the established procedure. (Part 1 of art. 67); every citizen is guaranteed the right to information. Every citizen is guaranteed the right to information. (Law on Guarantees and Freedom of Access to Information, Article 3, Part 1); written requests, including requests sent in the form of electronic documents, must be registered [2].

The legal basis of digital human rights is one of the fundamental human rights - the constitutional human right to freedom of information in its various forms, that is, everyone has the right to freedom of thought, speech and beliefs. Everyone has the right to seek, receive and disseminate any information he wants, with the exception of information directed against the current constitutional regime and other restrictions established by law [3].

In modern digital technologies, a new technological base is being formed, which has an impact on the economic, political, and social processes of the entire world community. The digital revolution is spreading to the entire legal system, both national and global. In civil law, it is necessary to distinguish the following digital objects: tokens, cryptocurrency, smart contract, artificial intelligence and virtual property, virtual (digital) property, virtual reality, etc.

The legal regulation of modern digital objects currently does not give a clear answer about the status of the legal nature

and possible ways to protect the rights of owners of these digital objects.

In digital civil law, property rights are divided into digital objects that must be protected. Property liability occurs when these rights are violated. Intangible characteristics of digital objects in Russian civil law require a special classification of specific methods of protection

According to V.D. Zorkin, "digitalization of public life has led to the emergence of previously unknown digital rights. Digital rights refer to the rights of people to use, create and publish digital works, access to computers and other electronic devices, as well as access to communication networks, especially the Internet [4].

The number of digital assets is rapidly increasing. The existing methods of protecting digital assets demonstrate their failure, since they do not take into account the features of the digital assets themselves. Since the problem is extensive, the work examines only the legal protection of the social network page.

The absence of legal consolidation of the social network page as an object of civil rights and its legal protection in domestic legislation was revealed. On this issue, the author investigated the legislation and judicial practice of Germany for the purpose of possible reception.

In recent years, the issue of personal data protection has been quite acute. Not so long ago, the European Union adopted the General Regulation on the Protection of Personal Data (GDPR), [5] according to which companies are obliged to protect the integrity and confidentiality of data, to guarantee a transparent data collection system. In general, the law is evaluated extremely positively, but there is also a



critical position that it does not bring anything new [6].

In practice, many services explicitly prohibit the transfer of accounts without the explicit consent of the company. For example, the Steam Subscriber Agreement states that the account and all information on it is purely personal and cannot be sold or transferred as a legacy to third parties without Valve's consent [7]. At the same time, large funds are invested in the profile. As a result, all the subscriber's attachments in the event of his death are burned without the possibility of transferring them to someone else in the order of inheritance. It is also important to note that German doctrine does not allow the transfer of access to the page without a prior user request [8]. It is noted that the rights transferred by inheritance are not of a proprietary nature, but are an obligation to maintain a personal account. This, in turn, can have an extremely negative impact on the inherited property, access to which is lost. In this regard, there are polar positions in judicial practice.

In digital civil law, property rights to digital objects subject to protection are allocated. Property liability occurs in case of violation of these rights. Intangible characteristics of digital objects in Russian civil law suggest a special classification of certain methods of protection:

1. Protection of the rights of token holders as owners of corporate securities (shares) or other securities. In this case, civil law methods of protecting the rights provided for the owners of securities are applicable, if the token in an individual national jurisdiction falls under regulation as a type of security. For example, in the legislative system of Switzerland and the United States, this possibility is allowed. An

example is the well-known process of Tezos Inc., in 2017, which announced an ICO on the issue of tokens in order to create a consortium of 4-5 banks to create a large fund and conduct fundraising operations for the development of a blockchain platform and smart contracts similar to the Ethereum cryptocurrency. During the implementation of the program, the price of the token drops significantly, and a lawsuit was filed in a California court on behalf of numerous individuals who purchased tokens in Tezos. The requirements included the elimination of violations of the rules for registration and sale of Tezos as securities, as well as the prosecution of unscrupulous competitors, including for false advertising distribution.

2. Recognition of an invalid transaction (initial placement of ICO tokens) made under the influence of a misconception lies in the mandatory declaration of the purpose of accumulating funds or other property, as well as the means to achieve it. Token holders may claim damages or invalidate the transaction in case of refusal to provide such information or its distortion, if they acquired tokens under the influence of delusion. In this example, an ICO is recognized in a specific national jurisdiction as a transaction (transaction), for the application of, for example, art. 178 of the Civil Code of the Russian Federation (Civil Code of the Russian Federation). Thus, in accordance with Article 128 of the Civil Code of the Russian Federation, the token should be considered as the concept of "property" and correspond to it.

In each specific case, based on the subject and transaction (transaction), the essence and nature of the legal relationship of the subject of the agreement of the parties (contract), the main function of the law is



determined under the legal regime of the digital ICO. For example, it can be a property right to an intangible object that arose from the creation of a digital property asset (token), or a right from a security, or a right in a claim, etc.

3. Protection of rights that arise from contractual obligations in case of violation of the terms of the contract. This method of protection is possible when transferring rights to tokens, which are issued in the form of purchase and sale or donation. The terms of this operation are provided for by the rights of the token owner under the obligation, including the fulfillment of the project conditions. If there is a violation of contractual terms, then the property liability of the parties comes to the rescue, which is stipulated in the contract document, for example: penalties, the ability to recover damages, etc.

However, currently, the methods of protection provided for by law are not enough to protect digital rights due to their specifics. At the present stage of development, artificial intelligence is increasingly becoming a strategic project. In a number of foreign countries, national strategic plans are being adopted, as well as national projects for the creation and development of artificial intelligence are being implemented. In the USA, for example, there is a program "National Artificial Intelligence Research and Development Strategic Plan", in the European Union a system of legislative regulation in the field of robotics (Guidelines on Regulating Robotics) was created, in Japan there is a "New Robot Strategy", in China – "Made in China".

Since November 1, 2020, in the Republic of Uzbekistan, one of the current deputy heads of all ministries and departments,

local executive bodies has been entrusted with the powers of the Deputy head for Digitalization (Chief Digital Officer), and their priorities are the following:

development and timely implementation of departmental digital transformation programs providing for the widespread introduction of information systems and resources;

create the necessary conditions for further expansion of the provision of electronic public services using mobile devices and other forms of electronic cooperation;

measures to ensure the openness and transparency of the activities of departments, the placement of open information and other information on the Internet;

ensuring information security of departmental digital infrastructure, as well as protection of electronic data and documents.

Coordination of the activities of the Deputy for digitalization in the relevant direction was entrusted to the Ministry for the Development of Information Technologies and Communications [9].

The most important tasks for further improvement of the sphere of turnover of crypto assets were the following:

to diversify various forms of investment and entrepreneurial activity, activities in the field of crypto assets turnover are provided, including mining (activities to provide a distribution platform and create new blocks that allow receiving remuneration in the form of new units and commission fees in various crypto assets), smart contract (activities to ensure compliance with rights and obligations through the automatic implementation of digital transactions). contract in electronic form), Consulting, issue, exchange, storage,



distribution, management, insurance, as well as the introduction and development of distributed data registry technologies; training of qualified personnel with practical skills of working with the use of modern information and communication technologies in the field of development and use of distributed data registry technologies; comprehensive development of cooperation with international and foreign organizations in the field of crypto-active activities and distributed data registry technologies, attracting highly qualified foreign specialists engaged in the development of distributed data registry technologies for joint implementation of projects in the digital economy; creation of the necessary legal framework for the introduction of distributed data registry technologies, taking into account the best practices of foreign countries; ensuring close cooperation between government agencies and business entities in the field of introducing innovative ideas, technologies and developments for the further development of the digital economy [10].

In the field of security, digitalization affects the following industries:

- information security is provided on the basis of modern domestic developments in the processing, transmission and storage of

data that guarantee the protection of the interests of the individual, business and the state;

- on the basis of domestic modern developments, end-to-end digital technologies are being created;

- new digital technologies and platform solutions are being introduced in the areas of public administration and the provision of public services in the interests of the population and small and medium-sized businesses, as well as individual entrepreneurs.

Thus, in our opinion, the introduction of the concept of "digital rights" into legislation is, in principle, terminologically not quite accurate, and their attribution to objects of civil rights is completely erroneous. Of course, digital rights can be viewed as a legal fiction. However, the use of legal fiction in legislation should pursue some goal, contribute to achieving a certain result. In the case under consideration, such a result, apparently, is the extension of the property rights regime to cryptocurrencies and tokens. However, it seems that there is no objective need to create such a complex structure – for the purposes of regulating economic turnover, it would be enough to recognize the fact that property rights can be recorded in digital form, including by making entries in decentralized registers.

## References:

1. Decree of the President of the Republic of Uzbekistan On the approval of the strategy "digital uzbekistan — 2030" and measures for its effective implementation. National database of legislative information, 06.10.2020., № 06/20/6079/1349.
2. The Law of the Republic of Uzbekistan on Guarantees and Freedom of Access to Information) National database of legislative information, 21.04.2021., № 03/21/683/0375). <https://lex.uz/docs/-1319>.
3. Constitution of the Republic of Uzbekistan. <https://lex.uz/docs/-20596>.
4. Zorkin V.D. Law in the digital world // Rossiyskaya Gazeta. 2018. May 29.



5. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27.04.2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) // [Электронные ресурсы] URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>.
6. Cool A. Europe's Data Protection Law is a Big, Confusing Mess. The New York Times of 09.14.2018 // Academia [Электронный ресурс] URL: [https://www.academia.edu/42273491/Europe s Data Protection Law Is a Big Confusing Mess](https://www.academia.edu/42273491/Europe_s_Data_Protection_Law_Is_a_Big_Confusing_Mess).
7. URL: [https://store.steampowered.com/subscriber\\_agreement/russian/#1](https://store.steampowered.com/subscriber_agreement/russian/#1).
8. Kartashov M.A. *Inheritance of a personal page on a social network after the death of a user in the judicial practice of Germany. Part one* // *The Law*. [Electronic resource] URL: [https://zakon.ru/blog/2018/05/24/nasledovanie\\_lichnoj\\_stranicy\\_v\\_socialnoj\\_seti\\_posle\\_smerti\\_polzovatelya](https://zakon.ru/blog/2018/05/24/nasledovanie_lichnoj_stranicy_v_socialnoj_seti_posle_smerti_polzovatelya)
9. Decree of the President of the Republic of Uzbekistan On the approval of the strategy "digital uzbekistan — 2030" and measures for its effective implementation. National database of legislative information, 06.10.2020., № 06/20/6079/1349.
10. Resolution of the President of the Republic of Uzbekistan On Measures to Develop the Digital Economy and the Sphere of Circulation of Crypto Assets in the Republic of Uzbekistan National database of legislative information, 04.07.2018., № 07/18/3832/1452.
11. Otabek, R. (2022). FOREIGN EXPERIENCE IN RECONSTRUCTION OF CORPORATE LAW. *Web of Scientist: International Scientific Research Journal*, 3(8), 538-542.]
12. Рахмонов, О. (2022). The content, concept and procedural aspects of the institution of reorganization as a legal category. *Общество и инновации*, 3(7/S), 248-253.
13. Rakhmonov, O. (2022). Peculiarities of consideration of cases in economic courts on voluntarily reorganized limited liability companies.