



CIVIL AND LEGAL SUPPORT OF DIGITAL TRANSFORMATION IN THE REPUBLIC OF UZBEKISTAN

Bozarov Shavkat Tadjibaevich

Philosophy Doctor in Law.

Leasing Association of Uzbekistan. Lawyer

e-mail: shavkatbozarov3@gmail.com

<https://www.doi.org/10.5281/zenodo.8063850>

ARTICLE INFO

Received: 15th June 2023

Accepted: 20th June 2023

Online: 21th June 2023

KEY WORDS

Digital economy, digital asset, digital platform, digital document, blockchain, crypto currency, smart contract.

ABSTRACT

In this article, based on the provisions of the Civil Code of the Republic of Uzbekistan, decrees of the President of the Republic of Uzbekistan, other normative legal acts, data from researches by experts of the World Bank Group the features of the introduction of digital technologies into civil circulation in the Republic of Uzbekistan are analyzed, proposals for amendments and additions to the Civil Code of the Republic of Uzbekistan and the adoption of the Law of the Republic of Uzbekistan «On Digital Assets» are justified.

For the first time, the category "digital economy" was applied by Professor Nicholas Negroponte of the Massachusetts University of Technology, who put forward in 1995 the idea of the importance of the transition from processing atoms to processing bits [1]. According to representatives of the World Bank, the digital economy covers, in addition to economic, also social and cultural relations, which are based on the use of information and digital technologies and are used to create, process and transmit information and provide services [2].

The Program "Digital Economy of the Russian Federation" approved by the Decree of the Cabinet of Ministers of the Russian Federation No. 1632-r dated July 28, 2017 determines that in all spheres of socio-economic activity in the digital economy, the key factor of production is data in digital form, which contributes to improving the competitiveness of the country, the quality of life of citizens, ensures economic growth and national sovereignty [3].

In the era of the fourth industrial revolution (Industry 4.0), information and communication technologies are developing rapidly, widely penetrating into all sectors of the economy and areas of government activity, into people's daily lives; the processes of collecting, processing and transmitting information are accelerating and becoming cheaper, an infinite number of software products, various platforms and devices are being created all over the world; in modern digital the economy is developing virtual connections, paperless document management is used, international payments are speeding up, crypto-currencies are used, etc.

The widespread use of information and communication technologies significantly accelerates the development of the economy of modern states. According to the World Bank's



development Report in 2016, every dollar additionally invested in the digital sphere can bring \$20 by 2025, which exceeds the average return on investment in other spheres by more than 6 times [4].

In order to ensure the digital transformation of the country, the President of the Republic of Uzbekistan approved the Strategy "Digital Uzbekistan-2030", including measures for the digital transformation of regions and industries. The strategy includes programs that provide for an increase from 78 to 95 percent of the level of connection of settlements to the Internet, the introduction of over 400 information systems, electronic services and other software products in various areas of socio-economic development of regions, the organization of training 587 thousand people in the basics of computer programming, etc. [5].

Approved by the Decree of the President of the Republic of Uzbekistan No. UP-60 dated January 28, 2022, the Strategy for the Development of New Uzbekistan in 2022-2026 also attaches great importance to the digital development of the country, the most relevant directions of which are the deepening of the digitalization of the activities of state bodies and the development of digital technologies in the economy [6].

Of particular importance for ensuring the legal regulation of digital economic relations is the creation of the legal foundations of civil turnover, where the most relevant two areas are the issues of civil law regulation of obligations with elements of digital technologies and real rights to digital assets.

The issue of legal regulation of transactions with the use of information and communication technologies occupies an important place in the relations of obligations. The Civil Code of the Republic of Uzbekistan does not provide for the electronic form of the transaction, although in accordance with part four of article 366, the subjects of contractual relations can use electronic means of communication to exchange documentation in the process of concluding contracts. In the Russian Federation, the second part of Article 160 of the Civil Code determines that the written form of the transaction is also considered to be complied with in the case of a transaction using electronic or other technical means that allow the content of the transaction to be reproduced unchanged on a tangible medium, while the requirement for a signature is considered fulfilled if any method is used to reliably identify the person, expressing the will [7].

The Ukrainian legislator in article 205 of the Civil Code equated an electronic form to a written transaction, and article 207 of the Ukrainian Code provides for the possibility of fixing the will of the parties in an electronic document and allows the use of an electronic signature [8]. In Kazakhstan, Article 152 of the Civil Code allows the parties to a transaction to make a written transaction in electronic form by exchanging electronic documents and affixing an electronic seal [9].

Based on the advantages of the electronic form of transactions, which provides significant savings in time and money, it is proposed to introduce norms into the Civil Code of the Republic of Uzbekistan that create a legal basis for concluding transactions in electronic form. In particular, it is proposed to supplement Article 107 of the Civil Code with part eight in the following wording: "The written form of a transaction may be made electronically in the form of an electronic document that allows determining the essential terms of the transaction



and the persons who concluded it," and part four of article 366 after the words "one document" should be supplemented with the words "(including electronic)".

The issue of legal regulation of the circulation of digital assets is particularly relevant. In the modern world, the use of digital assets in commercial circulation is expanding, and the creation of an effective legal framework for their circulation is a necessary condition for ensuring transparency and increasing the effectiveness of their use in economic relations, to protect the rights and legitimate interests of subjects of digital relations.

In this area, the Law of the Republic of Uzbekistan No. ZRU-792 "On Electronic Commerce" dated September 29, 2022 is of great importance, the norms of which regulate issues related to the legal status, rights and obligations of e-commerce entities, the legal force of electronic documents, the procedure for concluding contracts, etc. [10].

Despite all the advantages of this Law in comparison with its previous version from 2015, it is also not without certain drawbacks. In particular, the new Law does not contain rules regulating the features of electronic execution of contracts in the digital environment. This gap in legislation should be eliminated by making additions to it, in particular, on the issue of the execution of civil contracts in the field of electronic services and electronic execution of contracts using blockchain technologies (for example, smart contracts), artificial intelligence and other digital technologies.

It is also necessary to pay attention to the fact that the content of this Law does not allow us to unequivocally answer the question of whether its norms are applicable in the provision of financial services by credit institutions. The services of credit institutions always have significant features that require special legal regulation. In addition, of all sectors of the economy, the digitalization of the credit sector is taking place at the most accelerated pace. And this Law does not meet all the requirements and challenges that arise in the process of digitalization of the credit sphere. In this regard, it is proposed to supplement article 1 of this Law with part three in the following wording: "The specifics of the provision of financial services by credit organizations using information systems are determined by the Central Bank of the Republic of Uzbekistan".

In the conditions of digitalization of civil turnover, the issue of the object of civil legal relations, where digital technologies are the dominant factor, is of particular relevance. The issue of the object of civil rights in the digital sphere is of fundamental importance, since it is around such an object that the entire system of legal regulation is built, the most important elements of which are determining the scope of property rights, the legal status and turnover regime of this object, the powers of owners and third parties, protection of the rights and interests of the owners of the object, and much more. Without delving into the theoretical discussion that exists in civil law regarding the essence of objects of civil legal relations, we recall that the civil legislation of the Republic of Uzbekistan as an object of civil rights recognizes various types of tangible and intangible goods (things, property and property rights, results of intellectual activity, etc.)

In the sphere of circulation of digital goods are currently the most important in the Republic of Uzbekistan the regulatory acts are:

1) Decree of the President of the Republic of Uzbekistan "On measures for the development of the digital economy and the sphere of turnover of crypto assets in the



Republic of Uzbekistan" dated July 3, 2018 No. PP-3832 [11]. This regulatory legal act identified the most important tasks in the sphere of turnover of crypto assets as the introduction and development of mining, provision of provider services in the field of crypto assets (activities of crypto exchanges, mining pools, crypto depositories, crypto stores, etc.), smart contracts, consulting, issue, storage, distribution, management, insurance of crypto assets, etc.; the authorized body in the field of development of crypto assets has identified the National Agency for Promising Projects; in this regulatory legal act, for the first time in Uzbekistan, the definition of a crypto asset is given, under which the property right is defined, which is a set of digital records in a distributed data registry that has value and owner;

2) Decree of the President of the Republic of Uzbekistan "On measures to organize the activities of crypto-exchanges in the Republic of Uzbekistan" dated September 2, 2018 No. PP-3926, which also contains norms concerning activities in the field of digital assets, namely: crypto-exchanges [12].

This regulatory legal act establishes that transactions with crypto assets are not subject to taxation, they are not subject to the requirements of legislation on currency regulation and the norms of legislation on securities, exchanges and exchange activities; as a crypto exchange, this regulatory legal act defines an organization that provides an electronic platform for buying, selling and exchange of crypto assets;

3) The Order of the Director of the National Agency for Promising Projects "On approval of the Regulations on the Procedure for licensing the Activities of Service providers in the Sphere of turnover of crypto assets" (registered by the Ministry of Justice of the Republic of Uzbekistan No. 3380 dated August 15, 2022). This Provision gives definitions to such important concepts in the field of crypto-exchanges as a crypto asset, a distributed data registry, a crypto service provider, a crypto exchange, a mining pool, a crypto store, a crypto depository, etc.; establishes licensing requirements and the procedure for issuing, reissuing, suspending and terminating licenses, requirements for the founders of providers, etc. [13].

4) Order of the Director of the National Agency for Promising Projects "On approval of the Rules for Trading Crypto Assets on the crypto Exchange" (registered by the Ministry of Justice of the Republic of Uzbekistan No. 3379 dated August 15, 2022). This regulatory legal act, along with the regulation of the procedure for admission to trading and trading of crypto assets, defines such key concepts in the field of the digital economy as a token and a smart contract. In particular, the token is defined as a type of crypto asset, which is a unit of accounting in a distributed register of data serving to satisfy an obligation or ownership right to a certain asset, which is managed on the basis of a smart contract, and a smart contract is an electronic contract, the performance of rights and obligations under which is carried out by committing in the automatic order of digital transactions [14].

The above regulatory legal acts are not sufficient to create a reliable legal framework for regulating digital assets. In addition, along with crypto assets, there may be other digital assets in circulation, for example, digital rights on securities and shares in the authorized capital of non-public companies, etc.

In the sphere of legal regulation of the civil turnover of digital assets, a solid legal foundation is created primarily by regulatory legal acts at the level of laws and the Civil Code. Only normative legal acts adopted by the Parliament and confirmed by the President in the



form of amendments and additions to the Civil Code and a separate law "On Digital Assets" will create a guaranteed legal mechanism for regulating public relations in the field of digitalization.

In order to create a reliable civil legal basis for the functioning of the digital economy, it is necessary to legislate digital assets as an object of civil rights with all the legal consequences that follow. The author proposes in article 81 of the Civil Code of the Republic of Uzbekistan to supplement the list of objects of civil rights with digital assets by including the words "digital assets" after the words "including property rights" in the text of this article. The introduction of the term "digital asset" into the Civil Code of the Republic of Uzbekistan will determine the place of digital assets in the system of objects of civil rights, create a legal basis for their civil turnover and provide an opportunity to protect the rights and interests of legal entities and individuals under agreements and transactions made with these assets.

Although the inclusion of digital assets in the list of objects of civil rights specified in Article 81 of the Civil Code is of fundamental importance for the civil law regulation of relations on the turnover of digital assets, for law enforcement practice it is necessary to define digital assets, which will distinguish digital assets from other objects of civil rights and build an effective system of legal regulation of their turnover, and adopt a special law on digital assets. For these purposes, it is proposed to supplement the Civil Code of the Republic of Uzbekistan with Article 96.1. with the name "Digital asset" in the following wording: "digital asset is property created in electronic digital form using cryptography and computer computing, as well as an electronic digital form of property rights certification".

The proposed Law of the Republic of Uzbekistan "On Digital Assets" will contain norms that develop the provisions of the Civil Code of the Republic of Uzbekistan on digital assets and regulate such important issues as the concept of a digital asset, blockchain and assets based on this technology, in particular, cryptocurrencies, the issuance, accounting and circulation of digital assets, the legal status of the operator, nominee holder and owner of a digital asset, the mode of operation of information systems in which digital assets will be handled, etc.

References:

1. Nicholas Negroponte. Being Digital. New York: Alfred A. Knopf. 1995.
2. The World Bank Group. Competition in the digital age. Strategic challenges for the Russian Federation. <https://openknowledge.worldbank.org/bitstream/handle/10986/30584/AUS0000158-RU>
3. Digital economy of the Russian Federation. Program. URL: <http://static.governmentrnt.ru/media/files/9gFM4FHj4PB7915v7yLVuPgu4bvR7MO.pdg>
4. The World Bank Group. World Development Report. Digital dividends: <http://documents1.worldbank.org/curated/en/224721467988878739/pdf/102724-WDR-WDR2016Overview-RUSSIAN-WebRes-Box-394840B-OUO-9.pdf>
5. On the approval of the Strategy "Digital Uzbekistan-2030" and measures for its effective implementation. Decree of the President of the Republic of Uzbekistan No. UP-6079 dated 5.10.2020 (National database of Legislation. 06.10.2020, No. 06/20/6079/1349). Lex.uz.doc.



6. About the Development Strategy of the new Uzbekistan. Decree of the President of the Republic of Uzbekistan No. UP-60 dated January 28, 2022 (National Database of Legislation, 29.01.2022, No.06/22/60/0082, 18.03.2022, No.06/22/89/0227). Lex.uz.doc.
7. Civil Code of the Russian Federation. <http://pravo.gov.ru/proxy/ips/?docbody=&nd=102033239>
8. Civil Code of Ukraine. <https://zakon.rada.gov.ua/laws/show/435-15?lang=ru#Text>
9. Civil Code of the Republic of Kazakhstan. https://online.zakon.kz/document/?doc_id=1006061&doc_id2=1006061#pos=417:-97&pos2=5:-98
10. About e-commerce. Law of the Republic of Uzbekistan No. ZRU-792 of 29.09.2022 (National Database of Legislation, 30.09.202, No.03/22/792/0870.) Lex.uz.doc.
11. On measures to develop the digital economy and the sphere of turnover of crypto assets in the Republic of Uzbekistan. Resolution of the President of the Republic of Uzbekistan dated July 3, 2018 No. PP-3832. (National Database of Legislation, 04.07.2018, No. 07/18/3832/1452). Lex.uz.doc.
12. On measures to organize the activities of crypto exchanges in the Republic of Uzbekistan. Resolution of the President of the Republic of Uzbekistan dated September 2, 2018 No. PP-3926. (National Database of Legislation, 03.09.2018, No. 07/18/3926/1823) Lex.uz.doc.
13. On the approval of the Regulations on the Procedure for Licensing the Activities of service providers in the Field of turnover of crypto assets. The order of the Director of the NAPPE dated July 14, August 2022. The Ministry of Justice of the Republic of Uzbekistan No. 3380 dated 15.08.2022 (National Database of Legislation, 15.08.2022, No. 10/22/3380/0742). Lex.uz.doc.
14. On approval of the Rules for Trading Crypto assets on the crypto exchange. The order of the Director of the NAPPE dated July 18, August 2022. The Ministry of Justice of the Republic of Uzbekistan No. 3379 dated 15.08.2022 (National Database of Legislation, 15.08.2022, No. 10/22/3379/0743) Lex.uz.doc.