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ABSTRACT

The article examines the legal status and features of digital currency as an object of civil rights in Ukraine and the EU. The legal nature of digital currency as a whole and its variety - cryptocurrency (virtual currency), which does not have a clearly defined legal nature and is recognized either as a means of payment or as a commodity in European countries – has been studied. Digital (electronic) currency is electronic money that is used as an alternative or additional currency. Most often, their value is tied to national currencies. Such digital currencies as Estcoin, eKrona, e-hryvnia were analyzed.

It was determined that virtual currency, as a special type of digital currency, does not have the status of legal tender in the vast majority of jurisdictions of European countries. The normative definitions of digital currencies in Ukraine and the EU were studied, as well as the jurisdictions in which virtual currencies were given official status as a means of payment were analyzed. Focused attention on the prospective legislation of Ukraine, dedicated to virtual assets and virtual currency. Features of digital currency as an object of civil rights and peculiarities of its legal status are formulated.

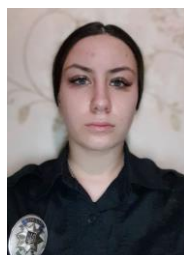
Keywords: digital currency, virtual assets, cryptocurrency, civil rights objects, fiat currency, blockchain, e-hryvnia.

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PECULIARITIES OF REPRESENTATION IN CIVIL PROCEEDINGS

Марина Логінова, Кароліна Резніченко. ОСОБЛИВОСТІ ПРЕДСТАВНИЦТВА У ЦИВІЛЬНОМУ ПРОЦЕСІ. Стаття присвячена висвітленню однієї з актуальних проблем цивільного процесу щодо питання представництва в цивільному процесі України. Сучасний цивільний процес відрізняється особливою складністю, оскільки на зміну слідчому процесу прийшов процес змагальний, сутність якого полягає у перенесенні обов'язку обґрунтування і доведення всіх фактичних обставин справи на сторони. Нині цивільне судочинство здійснюється на засадах змагальності, тому сторони та інші особи, які беруть участь у справі, повинні довести обставини, на які посилаються як на підставу своїх вимог та заперечень.

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Проаналізовано поняття, ознаки представництва як важливого процесуального засобу репрезентації та захисту інтересів сторін та інших учасників цивільного судочинства. Його суть полягає у процесуальній діяльності представника або повіреного, спрямованій на захист суб'єктивних прав та охоронюваних законом інтересів іншої особи, як сторони або третьої особи, що бере участь у справі, державних і громадських інтересів, а також сприяння суду у всебічному, повному й об'єктивному з'ясуванні обставин справи з метою постановлення законного і обгрунтованого рішення по справі. З розвитком суспільства сфера застосування представництва охопила широке коло як майнових, так і немайнових відносин. Важливість цього інституту в суспільному житті визначається тим, що представництво дає змогу оптимізувати та активізувати процес набуття та реалізації суб'єктивних прав та обов'язків, а для непрацездатних громадян воно є основним засобом їх участі у правовідносинах. За допомогою представництва можна набувати і здійснювати більшість матеріальних і процесуальних цивільних, а також інших суб'єктивних прав і обов'язків залежно від галузі.

Таким чином, представництво виступає однією з важливих гарантій реального здійснення прав і виконання обов'язків суб'єктами права. Значення цього інституту в суспільному житті визначається тим, що за допомогою інституту представництва створюються додаткові можливості для здійснення прав і обов'язків учасниками цивільних правовідносин, здійснюється найбільш повний захист їх суб'єктивних прав. Забезпечується, а ефективність налагодження економічних зв'язків між суб'єктами господарювання підвищується.

Актуальність даної теми зумовлена проведенням в Україні системних та ефективних правових реформ, що зумовлює необхідність поглибленого дослідження проблем удосконалення механізмів для реалізації та захисту цивільних прав та інтересів особи та (у зв'язку з цим) переосмислення деяких підходів до правової природи представництва.

Ключові слова: представництво, представник, довіреність, адвокат.

Relevance of the study. Most disputes are considered by the court with the participation of representatives of one or both parties, therefore the institution of representation plays a significant role in the system of procedural and legal relations regarding the protection of the rights and legitimate interests of persons participating in the case. Existing fields of law are intensively changing, updating and becoming more complicated, and the emergence of new categories of cases causes difficulties in their application, especially by persons who do not know the intricacies of regulatory and legal acts. In these conditions, the need for professional representation is particularly noticeable, therefore representation carried out by qualified lawyers on a contractual basis is becoming more and more important.

Voluntary representation in civil proceedings is one of the forms of legal assistance guaranteed by the Constitution of Ukraine (Article 59). If legal representation in civil proceedings in one form or another has existed for many centuries, given the objective impossibility of certain categories of subjects to appear in court on their own, then voluntary representation to some extent depends on the degree of democracy and development of the state.

Recent publications review. Turning to the institute of representation in civil proceedings, it should be noted that both domestic and foreign scientists paid attention to this issue, namely: I. Biryukov, S. Kerimov, L. Klimovska, N. Galaburda.

Despite the careful and long-term development of the problems of representation in civil procedural law, many of its problems remain unsolved, in particular the issues of classification of representation, the limits of the application of the institution of representation, the separation of voluntary representation in court from related institutions, the peculiarities of certain types of voluntary representation.

The article's objective is to investigate the formation and development of the modern model of representation in court proceedings as a form of providing legal assistance.

Discussion. According to Art. 15 of the Civil Code of Ukraine, the parties to the case have the right to use legal assistance. The Constitution of Ukraine, giving priority to the rights and freedoms of man and citizen, proclaimed and guarantees citizens the right to judicial protection. With the development of society, the scope of application of representation covered a wide range of both property and non-property relations. The importance of this institution in social life is determined by the fact that representation enables optimization and activation of the acquisition and implementation of subjective rights and obligations, and for disabled citizens it is the main means of their participation in legal relations. With the help of representation, it is possible to acquire and implement the majority of material and procedural civil, as well as other subjective rights and obligations depending on the branch. Thus, representation acts as one of the important guarantees of real exercise of rights and fulfillment of duties by legal subjects. The importance of this institution in social life is determined by the fact that with the help of the institution of representation, additional opportunities are created for the exercise of rights and

obligations by participants in civil legal relations, the most complete protection of their subjective rights is ensured, and the effectiveness of establishing economic ties between the subjects improves the management [7, p. 973].

Guided by the content of the provisions of Art. 58 of the Civil Code of Ukraine, three types of procedural representation can be distinguished:

- Representation of natural persons;
- Representation of legal entities;
- Representation of the state.

In Art. 59 of the Code of Civil Procedure of Ukraine lists another type of representation as legal, which is carried out in the interests of incapacitated persons, as well as persons whose civil capacity is limited [3, p. 105].

As for legal aid in civil proceedings, since January 1, 2019, the representation of the interests of individuals in courts of all instances in cases in which proceedings have not been opened by September 30, 2016 is carried out by lawyers. Exceptions to this rule, in accordance with Art. 131 of the Constitution of Ukraine, there is representation in court in labor disputes, disputes regarding the protection of social rights, regarding elections and referenda, in minor disputes, as well as regarding the representation of minors or minors and persons recognized by the court as incompetent or whose legal capacity is limited. Therefore, in civil proceedings, as an exception, during consideration of disputes arising from labor relations, as well as cases in minor disputes, a person who has reached the age of eighteen and has civil procedural legal capacity can be a representative. In addition to the requirements that procedural representatives in such cases must meet. At the same time, the legislator establishes a relative and absolute prohibition of procedural representation [5, p. 452].

The circle of persons who can exercise the right to representation is defined in Part 1 of Art. 58 of the Civil Code of Ukraine are parties, third parties, persons who, in accordance with the law, protect the rights and interests of other persons, that is, all participants in legal proceedings. In separate proceedings, applicants, interested persons, as well as persons who, in accordance with the law, protect the rights and interests of other persons, have the right to legal aid. It is also worth noting that in adoption cases, the applicant's participation in the case is mandatory, regardless of whether he has a procedural representative.

Representation is characterized by certain features. Civil rights and duties belong to one person and are exercised by another. The representative performs certain legal actions. The representative acts on behalf of another person. Legal consequences arise not for the representative, but for the person he represents. When the agreement concluded by the representative caused losses for the counterparty, then the obligated party will not be the representative, but the person who authorized him to perform the deed [2, p. 124]. While in relation to natural persons, according to the modern doctrine of civil law, this prerequisite has no practical significance, due to the fact that each person has legal capacity from the moment of birth, then in relation to legal entities, this circumstance plays a decisive role, because legal capacity of the latter can occur only in the presence of certain conditions stipulated by law, and besides, such a person is not a subject of law and cannot acquire rights and obligations either personally or through a representative [3, p. 105].

Unlike criminal proceedings, in a civil proceeding, a person can protect his rights personally, but it is impossible to achieve the desired results in the consideration of a civil case in court without certain legal knowledge and skills in their practical application. Therefore, in the civil process, it is possible to protect the violated, unrecognized or disputed rights or interests of a person protected by law. Thus, Article 12 of the Code of Civil Procedure states that a person participating in a case has the right to a legal representation provided by lawyers or other specialists in the field of law. A person's personal participation in a case does not deprive him of the right to have a representative in this case (Article 38 of the Civil Procedure Code). That is, a representative can act in a civil process alongside a person or replace him [8, p. 672].

The representative in the process is an independent participant in the relationship, despite the fact that he represents the interests of other persons. Since the representatives are not included among the participants in the case, it can be assumed that they have no procedural interest. Also, the legislator did not include representatives among other participants in the legal process, who do not have and should not have an interest in the case. If we analyze the representative's interest in the proceedings, it can be considered that they are disinterested, since the court's decision does not affect their rights and legal interests. However, the representative's relationship with the principal and the purpose of procedural representation justify the subjective behavior of the

representative in the proceedings in favor of the participant whom he represents [10, p.148].

Conclusions. Having considered the representation as an activity for the exercise of powers, it can be concluded that the internal legal relationship is not part of this activity. But the legal relationship cannot be part of the activity - on the contrary, the activity can be the meaning of the legal relationship. If we consider representation as a unity of legal relations necessary and sufficient to achieve the goal of representation, then internal legal relations, on the contrary, are part of representation, regardless of the fact that the presence of this legal relationship is not yet sufficient to achieve the goal of representation, due to the fact that the authority is exercised in relation to third parties.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ABSTRACT

The article is devoted to highlighting one of the urgent problems of the civil process regarding the issue of representation in the civil process of Ukraine. The modern civil process is particularly complex, since the investigative process was replaced by an adversarial process, the essence of which is to transfer the obligation to substantiate and prove all the factual circumstances of the case to the parties. Currently, civil proceedings are carried out on the basis of competition, so the parties and other persons participating in the case must prove the circumstances they refer to as the basis of their claims and objections.

The concepts and signs of representation as an important procedural means of representation and protection of the interests of the parties and other participants in civil proceedings are analyzed. Its essence consists in the procedural activity of a representative or attorney, aimed at protecting the subjective rights and legally protected interests of another person, as a party or a third party participating in the case, state and public interests, as well as assisting the court in a comprehensive, complete and objective clarification

of the circumstances of the case in order to make a legal and well-founded decision on the case. With the development of society, the scope of representation has covered a wide range of both property and non-property relations.

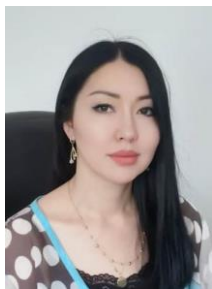
The importance of this institution in social life is determined by the fact that representation makes it possible to optimize and activate the process of acquiring and realizing subjective rights and obligations, and for disabled citizens it is the main means of their participation in legal relations. With the help of representation, it is possible to acquire and exercise most material and procedural civil, as well as other subjective rights and obligations, depending on the industry.

Thus, representation acts as one of the important guarantees of real exercise of rights and fulfillment of duties by subjects of law. The importance of this institution in social life is determined by the fact that, with the help of the institution of representation, additional opportunities are created for the exercise of rights and obligations by participants in civil legal relations, and the most comprehensive protection of their subjective rights is carried out. is ensured, and the efficiency of establishing economic ties between economic entities increases. The relevance of this topic is due to the implementation of systemic and effective legal reforms in Ukraine, which necessitates an in-depth study of the problems of improving mechanisms for the implementation and protection of civil rights and interests of the individual and (in this regard) rethinking some approaches to the legal nature of representation.

Keywords: *representation, representative, power of attorney, lawyer.*

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THE LEGAL NATURE OF PROPERTY AND NON-PROPERTY FAMILY RELATIONS

Алія Мусаєва. ПРАВОВА ПРИРОДА МАЙНОВИХ І НЕМАЙНОВИХ СІМЕЙНИХ ВІДНОСИН. Розуміння правового статусу сім'ї є важливим у правозастосовчій діяльності. Поняття сімейних правовідносин та їх види визначено Кодексом про шлюб та сім'ю Республіки Казахстан. Сімейні правовідносини у сімейному праві регулюють практично всі сфери життя та відносин у сім'ї. Зміст сімейних правовідносин утворюють правничий та обов'язки учасників. При цьому передача будь-яких прав учасників сімейних взаємин суворо заборонена, оскільки сімейні правовідносини, види яких бувають як немайновими, так і майновими.

Немайнові відносини особистого характеру припускають укладення або розірвання шлюбу, народження дитини або її усиновлення, також сюди належать і рішення, які подружжя приймає спільно – наприклад, вибір прізвища та інші моменти, що стосуються спільного життя. Тут же знаходиться виконання обов'язків з виховання дитини, її освіти та інших важливих життєвих аспектів. Особисті немайнові правовідносини членів сім'ї врегульовані нормами права. Незважаючи на те, що особисті немайнові відносини переважають у сім'ї, оскільки визначаються самою сутністю шлюбу, спорідненості, більшість з них перебувають за рамками правового регулювання.

У зв'язку з цим, у статті встановлено коло договорів у сімейному праві, що регулюють як майнові, так і немайнові відносини суб'єктів сімейних правовідносин, виявлено їх особливості на основі аналізу правових наслідків, укладання таких договорів, а також зумовлених не лише немайновим характером, а й сімейно- правовою природою і модернізація зазначених статей, може бути додатковим захистом для непрацездатних членів сім'ї.

Ключові слова: *сім'я, сімейні правовідносини, суб'єкти сімейних правовідносин, власність, шлюб, подружжя, спільна власність.*