



## Research Article

© 2024 Sindi Caushi

This is an open access article licensed under the Creative Commons Attribution-NonCommercial 4.0 International License (<https://creativecommons.org/licenses/by-nc/4.0/>)

# Digital Property and Civil Law: Navigating legal challenges and opportunities in Albania's evolving legal framework

PhD (C.) Sindi Caushi

Faculty of Law, University of Tirana, Albania

DOI: <https://doi.org/10.2478/bjir-2024-0024>

## Abstract

In the rapidly evolving landscape of the digital age, the concept of property has expanded beyond traditional physical assets to include intangible forms of ownership such as digital property. This transformation presents significant challenges for civil law, especially in Albania, where legal frameworks have struggled to keep pace with technological advances. This article explores the definition of digital assets, focusing on the assessments that organizations, law institutions or states have made regarding the disposition, transfer and protection of these assets. The article examines how Albanian civil law, rooted in traditional notions of property and inheritance, addresses issues related to digital rights, including digital asset management, digital tokens, and broader applications within blockchain ecosystems. Through an analysis of national and international legal perspectives, the article identifies the main challenges in adapting existing laws to the challenging complexity of digital ownership. It also proposes possible mechanisms to ensure the effective integration of digital property within Albania's legal system, drawing on legislative models from other countries.

By bridging the gap between technology and law, this manuscript aims to provide insight into how Albania can navigate the legal complexities of digital property and protect individual rights in an increasingly digital world.

**Keywords:** digital assets, property, inheritance, blockchain.

## 1. Introduction

Property is one of the most important concepts in civil law, playing a crucial role in regulating economic and social relations. The Civil Code of the Republic of Albania defines the concept of ownership in Article 149: "*Ownership is the right to freely enjoy and dispose of things within the limits set by law*". The object of property rights includes all things, whether movable or immovable. A thing constitutes everything that can form the object of a right; it is any external object that, when subject to human control, can bring economic benefit to the person exercising their right over it (Nathanaili,

1974). In this context, property is a powerful instrument for personal and economic development, as it guarantees individuals' rights and privileges over their assets. In recent years, with technological advancements and the growth of the digital world, a new form of property has emerged, known as "digital property." Nowadays, many different terms are used in legal (and sometimes non-legal) literature, such as virtual property, virtual assets, digital assets, *res digitales*, data, cryptoassets, or smart property. Furthermore, different terminologies appear in specific legal instruments, such as digital content (Lee, 2024)

The absence of a unified definition of digital property at the legislative level adds considerable complexity to understanding it in ongoing research (Conway and Grattan 2017). However, this challenge is understandable and reasonable due to the relatively recent emergence of the concept itself. Recently, there have also been some efforts to provide a legal definition of digital assets. First, there is the The International Institute for the Unification of Private Law (UNIDROIT) study titled "*Digital Assets and Private Law*," which provides its definition: "*an electronic record which is capable of being subject to control*" (Unidroit, 2023). Subsequently, the European Law Institute issued its principles on the use of digital assets as collateral (Soukupová, 2024). Following this, the United Kingdom Law Commission published its Consultation Paper on digital assets: "*Any asset that is represented digitally or electronically. There are many different types of digital assets, not all of which will be capable of attracting personal property rights*" (UK Law Commission, 2022). Recently the European Commission, through "*An EU Initiative on Web 4.0 and Virtual Worlds: A Head Start on the Next Technological Transition*," provided its own definition regarding digital assets: "*Digital representation of value that can be traded, transferred, or used for payment. It has specific usage rights and can include anything from cryptocurrencies to digital art and other forms of intellectual property*" (European Commission, 2023). It is also evident that most documents attempt to define digital assets as something "*digital*" or "*electronic*" that has value, transferability, and is subject to control (Soukupová, 2024).

The definition of digital assets is subject to varying interpretations within academia. Austerberry (2013) defines them as any intellectual property or digital material with associated usage or distribution rights. Conner (2011) broadens this definition to encompass any file created, stored, managed, or utilized through computers, servers, websites, or online platforms, including memberships and accounts.

An essential aspect of this concept is the notion of 'digital content', which helps distinguish between different types of property that include intangible components. This expanded understanding of 'digital property' is closely linked to current EU legislation, which provides the legal framework for the regulation of these assets. According to the legislation, we refer to Directive 2011/83/EU, which defines digital content as anything that 'is produced and made available in digital formats, including computer programs, applications, games, music, video, or texts, whether accessed via download or streaming, from a physical medium or by any other means (European Parliament & Council of the European Union, 2011).

Another directive, Directive (EU) 2015/2366 further defines digital content as content

produced and provided in digital format, specifying that its use or consumption is limited to a technical device (Dutt, 2022). This distinction is made by excluding “*physical goods or services*,” meaning that digital content does not include tangible items or traditional services but exclusively refers to digital formats that require a technical device for access and interaction (European Parliament & Council of the European Union 2015).

In Albania, law no. 10128/2009 “*On Electronic Commerce*” plays a very important role in regulating digital trade in the country, providing the legal framework for the provision of electronic services and the use of digital content (Article 1). The law aims to ensure the free movement of information and online services (Article 3), establishing the responsibilities of information society service providers, including operators of platforms and virtual marketplaces (Article 8), where transactions between buyers and sellers take place. In accordance with EU Directives, such as Directive (EU) 2015/2366, digital content under Albanian law includes any content provided in digital formats that requires technical devices for access, clearly distinguishing it from physical goods and traditional services (Articles 2 and 3). Additionally, the law sets rules for the operation of virtual marketplaces, ensuring the protection of personal data and consumer rights (Article 16), including the right to cancel a transaction (Article 17). With the integration of EU legislation, Albania is developing a harmonized framework that supports the growth of electronic commerce and digital content in a protected and regulated environment, ensuring the protection of consumer rights and the transparency of transactions (Articles 9 and 10). The law regulates transactions involving physical products that are offered through digital platforms, with its main function being to ensure the environment for the transfer of these products. This is another important aspect of electronic commerce, where the digital platform serves as a tool for connecting buyers and sellers of physical products, but it does not apply to actual products created in the digital world.

Despite their replicability, digital assets challenge traditional notions of property rights due to their unique characteristics (Lee, 2024). The dynamic nature of property rights associated with digital assets reflects societal values and preferences in the digital era (Lynner, 2017). Operating on decentralized networks like blockchain complicates control and jurisdiction over them, diverging from traditional property law’s reliance on jurisdictional control. Digital property rights refer to the entitlements to access, control, enjoy, or use digital assets that operate against everyone or only against a contracting party or debtor, depending on whether they are legally characterized as rights in rem, obligations, or other rights (Bollen, 2016).

Technological advancement outpaces legal theory and regulatory development, leaving legal frameworks lagging behind. Despite these challenges, some best practices have emerged in the regulation of digital property, legal frameworks should be flexible and adaptive to the rapidly evolving digital landscape, incorporating new technological developments and addressing emerging challenges (Joldasova, 2023). Gilead Cooper KC (2021) suggests, “it may be that legislation will ultimately be needed to give a coherent structure to the law of what is, in effect, an entirely

new kind of property: A Law of Virtual Property Act?" Clear definitions and legal distinctions between different types of digital property are essential for effective regulation and enforcement (Rakha, 2023).

## **2. Legal regulation digital activities and distributing technology in the space for market innovation in different countries**

Nations should collaborate to establish common standards and frameworks for digital asset regulation, possibly through international agreements or treaties (Lee, 2024). The European Union aims to standardize the classification and Regulation of digital assets through asset markets and this has been achieved for crypto Regulations Markets in Crypto-Assets (MiCA) amendment Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 and introduces unified rules for crypto-assets across the EU. This rule-specific law for cryptoassets not covered by existing EU laws, protecting consumer and investor and financial value. The proposed MiCA regulation might introduce the term cryptoassets into the EU law (European Commission 2020). According to the regulation (Article 3, Section 1, Paragraph (2) of MiCA), cryptoassets are *"a digital representation of value or rights which may be transferred and stored electronically, using distributed ledger technology or similar technology."* Looking at the definitions, we may also observe that they are not that different from what some consider to be digital assets, the transferability and value are sometimes seen as a core features of digital assets, this makes sense since cryptoassets are just a subcategory of digital assets (Soukupová 2024). Cryptocurrency staking consists of "blocking" a digital asset to act as a validator in a decentralized cryptographic network to ensure the integrity, safety, and continuity of the network. As an incentive to help secure the network, stakers are rewarded with newly minted cryptocurrencies (Parrondo, 2024)

The principle of technological neutrality advocates for broad definitions of digital assets, distinguishing blockchain as a subset of distributed ledger technology (DLT). It suggests reserving "crypto" terminology for blockchain-based digital assets while classifying non-blockchain representations of value or rights simply as "digital assets," providing a clearer and more inclusive framework (Pereira Coelho & Quelhas Poças, 2024). The indeterminate nature of these concepts could limit innovation in the European space, as any type of DLT technology, or similar, that issues digital assets representing value or rights will ultimately be subject to a robust legal regime, which implies high initial costs in terms of due diligence (Pereira Coelho 2024). Additionally, according to Article 3(1)(2) of MiCAR, in addition to DLT, crypto-assets may also be based on another "similartechnology", which, combined with the lack of the differentiating element of cryptography, makes this definition extraordinarily broad and, at the same time, unclear (Maia & Vieira dos Santos 2024). Since MiCAR covers any type of digital asset, as long as it is issued through any type of DLT or any type of "similar technology" and is not excluded from its scope of application. This lack of harmony in aligning the economic and technical perspectives results in

serious problems in delimiting the definitions and, consequently, in determining the scope of application of MiCAR (Pereira Coelho & Quelhas Poças 2024).

MiCA exemplifies the critical role of law in structuring business operations, facilitating predictability, and setting standards for acceptable behavior. MiCA's influence on Crypto-Asset Service Providers (CASPs) includes requirements for transparency, consumer protection, and market integrity, aiming to foster trust and mitigate risks (Lindstedt Hedström & Söderlund 2024). The harmonized regulatory framework simplifies compliance across the EU, reducing legal uncertainties for businesses and investors. The regulation mandates detailed disclosures from crypto-asset issuers, which ensures informed investment decisions and protects against fraud (Lindstedt Hedström & Söderlund 2024).

One of the first specific enactments for the regulation of digital assets was adopted in Belarus: Decree of the Belarus Republic No. 8, "On the Development of the Digital Economy" of 21 December 2017. Appendix No. 1 of the Decree No. 8, "On the Development of Digital Economy," issued by the President of Belarus on December 21, 2017, specifies that a digital token is a record within a blockchain (a type of distributed ledger system) which confirms that the token holder possesses rights to certain civil law objects and that a token can serve as a form of cryptocurrency (Efimova, Sizemova & Chub 2024).

In 2020, Russia passed Federal Law No. 259-FZ "On Digital Financial Assets, Digital Currency, and On Amendments to Certain Legislative Acts of the Russian Federation" of 31 July 2020 (Smirnov et al., 2023). Digital currency under Russian law is classified as property. However, property can exist in the form of things, property rights, as well as other objects, as listed in Article 128 of the Russian Civil Code. The type of property that digital assets belong to is described in Part 2 Article 1 of Federal Law No. 259-FZ, "On Digital Financial Assets, Digital Currency and On Amendments to Certain Legislative Acts of the Russian Federation" of 31 July 2020. According to this provision, any digital financial assets shall be recognized as digital rights (Siddiqui et al., 2022)

The Republic of Serbia for the first time in 2020 with the adoption of the Law on Digital Assets (Official Gazette of the Republic of Serbia no. 153/2020), i.e. the adoption of the regulation at the level of the European Union (Kostic 2023) The goal of passing both regulations was primarily to improve the functioning of the digital assets market, but also to protect consumers on the capital market and improve fiscal stability. Due to the lack of a unified approach at the level of the European Union, as well as regulations at the national level, the digital assets market seemed like an unsafe area for investment and was suitable for various types of abuse. The law defines the concept of digital assets, under which both virtual currencies and digital tokens are classified (Art. 2, para.1, pts. 2) and 3), and the aforementioned regulation contains provisions prohibiting trade in confidential information, as well as manipulations on the digital assets market, and sanctions are prescribed for persons who do not comply with the prescribed prohibitions (Đurić & Jovanović 2023).

In Albania, Law No. 66/2020 "On Financial Markets Based on Distributed Ledger

Technology” is an important step in the regulation of digital assets and related financial markets (Republic of Albania, 2020). This law focuses on regulating the issuance, trading, and storage of digital tokens and virtual currencies, including the licensing and monitoring of entities providing these services. Article 3 of the law defines key terms and entities related to the issuance and distribution of digital assets, including digital tokens and virtual currencies. Through this provision, the law defines various categories of digital tokens and offers a clear legal framework for regulating the digital asset market. These categories include asset-backed digital tokens, payment digital tokens, security digital tokens, and service digital tokens, each with different characteristics and functions. Asset-backed digital tokens are those that are not included in other categories, while payment tokens are used for financial exchanges and store value. Security tokens represent values similar to financial securities and provide monetary or ownership rights, while service tokens provide access to applications or services within a DLT platform.

This legal differentiation is essential for organizing and controlling the digital asset market, helping to prevent risks such as fraud and money laundering. The law creates a clear framework for the operation of entities offering these services, ensuring a supervised and licensed system that enhances investor trust. Such definitions also help standardize and formalize the market, making Albania a more attractive environment for investment in the digital asset sector and contributing to the development of the country’s digital economy. This improves the protection of investors and consumers, who are often exposed to significant risks due to the complex and volatile nature of digital assets. With a clear legal foundation, investors have more security and confidence in the market for digital products. One of the primary requirements of the law is the licensing (Article 5) and supervision (Article 6) of entities involved in the distribution, trading, and storage of digital assets. This is an important measure to ensure that only licensed and supervised entities can operate in this market.

Furthermore, one of the key aspects of Law No. 66/2020 is its focus on innovative services and distributed ledger technology (DLT), including technologies like blockchain. The law encourages the use of new and innovative technologies for the development of financial markets, creating a favorable space for companies aiming to develop and offer financial products based on DLT. This is a significant boost for the digital economy in Albania and for the development of a sustainable ecosystem for digital assets, as expressed in Article 4 of the law. The law contributes to the formalization of the digital asset sector in Albania, bringing transparency and standardization to a market that is often disorganized and fragmented.

The regulation of digital assets requires international cooperation to create common standards that enable the development of digital financial markets and protect investors. In this context, the Albanian law on financial markets based on distributed ledger technology (DLT) is an important step, using technologies like blockchain to create a secure and transparent environment. This law contributes to the formalization of the digital asset market, offering a clear framework for the licensing and supervision of entities engaged in these activities. A significant part of this regulation is the

prevention of risks such as fraud and money laundering, ensuring protection for investors and consumers. Furthermore, this law enables Albania to better integrate into international digital finance markets, creating investment opportunities and developing the country's digital economy, positioning Albania as a trustworthy hub for the development of digital assets.

### **3. Digital Inheritance in the 21st Century: Legal Challenges and Regulatory Perspectives in Albania and Beyond**

The rapid proliferation of digital assets and accounts has created novel challenges in regulating inheritance that demand innovative legal solutions. Traditional inheritance frameworks, rooted in centuries-old property rights doctrines, inadequate evidence for the transfer of intangible digital assets (Akramov, Rakhmonkulova, Khazratkulov, Inamdjanova, Imamalieva, Tuychieva & Rustamova, 2024). Without tailored regulations, these virtual properties risk being lost, misappropriated, or descending into legal limbo upon an owner's death (Hopkins 2012).

Recognition of digital assets as heritable assets by passing legislation that explicitly defines digital assets as heritable property, similar to physical and financial facilities. In this way, by legally recognizing digital assets as part of an individual's wealth, through recognition in the legal framework, these assets are treated with the same importance as traditional property in inheritance procedures. It recognition allows for a more comprehensive estate planning process, where digital assets such as cryptocurrencies (which have largely been regulated in the legal framework of many states), social media accounts and digital content included in wills provides clarity and legal support for heirs and executors when accessing or managing these assets, reducing the risk of disputes or mismanagement (Akramov, Rakhmonkulova, Khazratkulov, Inamdjanova, Imamalieva, Tuychieva & Rustamova, 2024).

In its Charter for the Conservation of Digital Heritage of October 17, 2003, UNESCO specifies this term, considering that *"Digital heritage is made up of materials based on computing, of lasting value, which it is necessary to conserve for future generations"* (Hagerman, 2023). This definition makes it possible to demonstrate the growing challenge represented by the data constituting our digital heritage, but also its importance, because they are representative, carrying a value that can be passed on to heirs. For example, NFTs (non-fungible tokens) generated by the deceased during their lifetime create value, particularly financial value, and it is therefore important to anticipate their transmission and sharing among heirs (Peña, Jaramillo & Peña, 2023). The United States was the first country to propose a legal framework for digital inheritance, has made significant strides in recognizing digital assets in estate planning through the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA), which was adopted in 2015 and has since been enacted in 47 states (Ploss, 2018). RUFADAA gives executors or trustees, the legal authority to manage digital assets and accounts after an individual's death or incapacitation. It allows account holders to specify their wishes regarding digital assets in a will, trust, or

power of attorney (Sy, 2016). It introduced a definition for digital assets, as “a digital record in which an individual has a right or interest; the term does not refer to the underlying asset or liability unless the asset or liability is itself an electronic record” (Uniform Law Commission, 2015). The adoption of RUFADAA has provided clarity and legal backing for the management of digital assets, reducing the risk of disputes and ensuring that digital assets are included in estate planning. It has also encouraged more people to address digital assets in their wills, knowing that their wishes will be respected and legally enforced (Akramov et al., 2024).

There is currently no legislation at the European Union level that directly regulates legal issues related to digital succession. However, individual European Union countries already regulate these issues, the issue of inheriting access to digital assets is approached through the prism of personal data protection, distinguishing digital inheritance from the general system of succession law (Kadys, 2024).

The inheritance of assets in France is regulated by a certificate of the provisions of the Civil Code and of the Law on Information and Freedom, matters of the last article 85, approved by the law for a Digital Republic on October 7, 2016.<sup>1</sup> Digital assets, such as online accounts, wallets electronic and digital files, are considered intangible assets that are integrated into the inheritance according to the general rules of the systems (articles 720 and following the Civil Code). According to Article 714 of the Civil Code, these assets, which are not different from trade, can be passed on to the heirs. However, the identification and effective access to these assets are often hindered by technical, legal or contractual obstacles, such as the general conditions of their use by digital platforms (L’impact, D. L. T. N., Le Secteur, S. U. R., & France, B. E. 2024). To facilitate this process, the legislator has the people who are the heirs, in the running of the instructions of the types left by the deceased, can temporarily exercise the rights that have his personal data, such as the persons in point II of article 85 of the Law for Computing and Freedoms. These other rights access, rectification and deletion of personal data, enabling the heirs to not have secure information for the liquidation of all. They may also have possessions or other things that are personal or sentimental in nature, such as family mementos. All, one thing remains: the heirs must be informed about the digital services or platforms where these assets are held, which is often problematic in the notes of an accurate list of the deceased (Carata, & Chelaru, 2024). Like any inheritable asset, cryptocurrencies being considered property in the legal system, may be transferred between two or more persons, including also mortis causa, with succession. Cryptocurrencies are part of the property of the deceased and can be bequeathed to the descendants or persons designated in the will. In France, since 2014, the central administration has introduced in its doctrine the principle that cryptocurrencies can be passed on to heirs in order to include crypto-assets in the field of assets to be declared in a succession (Carata, & Chelaru, 2024).

Also, another state that talks about the issue of inheritance of digital assets is Poland. Polish law on inheritance matters, including digital assets, is governed by Book 4

<sup>1</sup>Loi n° 78-17 du 6 janvier 1978 relative à l’informatique, aux fichiers et aux libertés, modifiée par la Loi n° 2016-1321 du 7 octobre 2016 pour une République numérique. *Journal officiel de la République française*, n° 0235 du 8 octobre 2016, texte n° 1, Article 85.

of the Civil Code, referring primarily to Article 922, which regulates inheritable assets. The definition within this article according to which all “property rights and obligations of the deceased are inherited” and in no way excludes, but moreover separately marks digital assets, thus being a kind of equivalent of the principle of universal inheritance (Dutt, 2022).

While cryptocurrencies are not specifically regulated under Polish law, they are generally treated as property. This means that cryptocurrencies can be inherited as part of the decedent’s estate, provided they can be proven to be in the possession of the deceased. However, the intangible nature of cryptocurrencies, which do not have a physical form and rely on private keys for access, poses unique challenges in terms of access and transfer. As such, their inheritance may involve complex issues, including the need for heirs to have access to the private keys or wallets where the digital assets are stored (Grochowsky, 2019). Additionally, Polish courts have started to address issues of digital property in the context of succession, although there remains limited case law directly addressing the inheritance of cryptocurrencies. Scholars suggest that the legal framework should evolve to address the specificities of digital assets, including cryptocurrencies, to ensure clarity regarding the rights of heirs in this area (Grochowsky, 2019).

Switzerland has taken proactive steps to modernize its private international law, particularly in the context of inheritance, development of digital asset inheritance laws. In December 2023, Switzerland revised its Private International Law Act (PILA), introducing a set of rules designed to harmonize its succession laws with European standards, particularly aligning with the EU Succession Regulation (EU 650/2012). The revision aims to mitigate jurisdictional conflicts in international inheritances and enhance legal clarity, giving individuals more autonomy in deciding which jurisdiction governs their estate. A notable shift includes allowing Swiss nationals to opt for the jurisdiction of another state, which may be crucial for cross-border estate planning, including digital assets (Egger Castillo, Uldry, & Winogradoff, 2024).

In Albania, the issue of digital heritage is not directly regulated in the law. Therefore, the answer to the question of whether digital inheritance is possible according to Albanian law should be found in the general rules of inheritance law. Inheritance is one of the most important institutes of civil law and constitutes one of the ways of acquiring property due to death or *mortis causa*, compared to all other ways of acquiring property, which are between the living or *inter vivos*. Inheritance relations were born when ownership was born as an economic and legal relationship, for this reason the article started with the treatment of the right of ownership over things. The right to inherit is regulated by the Civil Code, which provides a legal definition of inheritance, stating that inheritance is understood as the transfer of property rights, obligations and certain personal non-property rights of a deceased natural person to his/her heirs. according to the law or (and) to his/her heirs by will. The meaning of inheritance as an institution of civil law is given in Article 316 which says: “Inheritance is the transfer by law or by will of the property (inheritance) of a deceased person to one or more persons (heirs), according to the rules specified in this Code.”

The heirs inherit the things belonging to the deceased at the time of his death, the Albanian law of inheritance is based, like that of many other countries of the European Union, on the principle of universal continuity of rights, which was established early on Roman law (Pelletier, Sonnenreich, 2014).

Law no. 66/2020 "*On financial markets based on distributed ledger technology*" addresses the use of blockchain technology and digital assets, including tokens and virtual currencies, as part of financial markets. However, it does not explicitly include provisions regarding the inheritance of these assets, creating challenges and interpretative gaps in relation to their transferability after the owner's death. This absence highlights the need for further legal development to adapt to the emerging realities of digital assets and establish clear mechanisms for their transfer to heirs.

The provisions of the law concerning the transferability of digital tokens (Article 3, point 23) and transferable securities (Article 3, point 77) provide a basis for treating these assets as transferable property. These provisions encompass characteristics that give tokens a clear economic and legal value, such as monetary rights and ownership rights. Additionally, non-custodial digital wallets (Article 3, point 60) confirm individuals' ownership of these assets and their responsibility for the safekeeping of private keys, which is essential for accessing and utilizing digital assets. However, this personal responsibility implies that, in the absence of mechanisms for post-mortem access, heirs may lose rights to these assets.

Regarding inheritance, the law does not specify mechanisms for the transfer of digital assets to heirs, leaving this matter to be regulated by the Civil Code and relevant inheritance legislation. Currently, Albania's Civil Code does not include provisions for the inheritance of digital assets, resulting in their exclusion from the conventional inheritance system. Consequently, the Civil Code must be amended to recognize tokens and digital currencies as inheritable property and establish mechanisms for their secure transfer to heirs.

A first step would involve integrating provisions for the safekeeping of private keys and the use of decentralized platforms within inheritance registries. Such mechanisms would ensure that heirs have secure access to the digital assets left by the owner. Moreover, Albania could draw inspiration from international practices, such as Switzerland's case, where regulations for the transfer of digital assets have been incorporated into their inheritance law framework. Such an approach would not only align with international standards but also safeguard property rights for individuals and their heirs in the digital age.

#### 4. Conclusion

The legal landscape surrounding digital assets remains complex and fragmented, as illustrated by varying definitions and regulations across jurisdictions. Despite the absence of a unified definition, efforts have emerged to establish legal clarity, such as those provided by the UNIDROIT, the European Commission, and the UK Law Commission. These definitions typically emphasize three core attributes: value,

transferability, and control, though they diverge in their conceptualization of digital assets, which can range from blockchain-based data to digital content.

In Albania, the legal framework for digital assets is evolving, with the adoption of Law No. 66/2020, which serves as a significant step toward regulating digital tokens, cryptocurrencies, and related financial markets. By focusing on licensing, monitoring, and ensuring compliance with anti-money laundering (AML) practices, this law provides a structured and secure environment for digital asset operations, enhancing investor confidence and market stability. The inclusion of Distributed Ledger Technology (DLT) encourages innovation while aligning with international standards, reinforcing Albania's position in the global digital economy.

While the regulation of digital assets continues to pose challenges due to their intangible and decentralized nature, a clear legal framework—such as that established by Albania's new legislation—can mitigate risks, improve market transparency, and attract investment. The regulatory framework must remain flexible and technology-neutral, focusing on the function and use of digital assets rather than their underlying technology. This approach is essential to accommodate rapid technological advancements and foster legal certainty in the digital economy.

Ultimately, harmonizing international standards and regulatory frameworks is crucial for the continued growth and integration of digital assets into mainstream financial systems. International cooperation will ensure that digital assets, including cryptocurrencies and blockchain-based assets, are adequately regulated to protect consumers, investors, and markets. As this regulatory landscape continues to evolve, it is important to maintain a balance between fostering innovation and ensuring the protection of fundamental rights, such as ownership, transferability, and the preservation of value within the digital economy.

The inheritance of digital assets has introduced new legal challenges due to their intangible and technological nature. Traditional inheritance frameworks, built on centuries-old principles of property law, often fail to adequately address the transfer of these assets. Countries like the United States, France, and Poland have made efforts to integrate digital assets into inheritance law by introducing specific provisions governing their management and transfer. These models demonstrate that recognizing digital assets as inheritable property, implementing mechanisms for heirs' access, and harmonizing with international standards are key to a successful approach. However, practical experiences reveal that technical obstacles and the lack of clear regulations remain challenges requiring effective solutions.

In Albania, the inheritance of digital assets is not directly regulated by law, leaving this issue under the general provisions of the Civil Code. Law No. 66/2020 on financial markets based on distributed ledger technology addresses the use and economic value of digital assets but does not provide mechanisms for their inheritance. This absence creates a gap that may result in the loss of these assets by heirs. To address these challenges, Albania must include provisions in its legislation that recognize digital assets as inheritable property, establish mechanisms for secure access to these assets, and align its regulations with international practices. Such measures would

ensure the protection of individuals' property rights and provide legal certainty for heirs.

## **5. Recommendations for Improving Albanian Legislation on Digital Asset Inheritance**

To address Albania's legal gaps in the inheritance of digital assets, it is essential for Albanian law to formally recognize these assets as inheritable property. This can be achieved through amendments to the Civil Code, which should include clear definitions of digital assets, such as cryptocurrencies, social media accounts, and other digital content. Such definitions would classify these assets as transferable property rights, providing a legal foundation for their transfer to heirs and eliminating uncertainties regarding ownership after the owner's death.

Another crucial mechanism is the utilization of blockchain technology for the transfer of digital assets. By implementing blockchain-based solutions, Albania could establish certified platforms for the safekeeping and transfer of private keys for cryptocurrencies. These platforms could function as "digital vaults," accessible to heirs after legal verification, ensuring secure and controlled access to digital assets left behind. In this regard, Albania could follow the Swiss model, creating secure platforms to store private keys for cryptocurrencies and other digital assets. These platforms could be integrated into the inheritance system and accessed by heirs upon identity verification.

Additionally, Albanian law must establish detailed guidelines for digital asset inheritance, inspired by French practices. These provisions should grant heirs the right to request information about digital accounts and assets from technological platforms and digital banks, ensuring that access to these assets is strictly for inheritance purposes and protected under personal data privacy regulations.

Finally, establishing national registries for digital assets is a strategic step Albania should undertake. Such a registry would include information on individuals' accounts and ownership of digital assets, integrating them with wills and inheritance records. This would ensure heirs have secure and prompt access to the digital assets left by the owner, minimizing the risk of asset loss due to insufficient information.

Furthermore, raising public awareness and education about the importance of incorporating digital assets into inheritance planning is crucial. Legal institutions and specialized organizations should provide guidance and services to citizens, helping them create clear plans for preserving and transferring digital assets. Legal education on the safest methods to protect private keys and the inclusion of these assets in legal wills is essential to prevent their loss or mismanagement by heirs.

These recommendations, grounded in international practices and tailored to the specificities of Albanian legislation, would help establish a robust and clear legal framework for digital asset inheritance. This would safeguard individuals' property rights and ensure legal security for heirs, contributing to a more sustainable and reliable digital economy in Albania.

## References

- Akramov, A. A., Rakhmonkulova, N. K., Khazratkulov, O. T., Inamdjanova, E. E., Imamalieva, D. I., Tuychieva, S. R., ... & Rustamova, N. R. (2024). The impact of digitalization in inheritance law. *Qubahan Academic Journal*, 4(3), 100-134.
- Akramov, A. A., Rakhmonkulova, N. K., Khazratkulov, O. T., Inamdjanova, E. E., Imamalieva, D. I., Tuychieva, S. R., Ibodullaev, S. B., Ergashev, A. E., Khamidov, S., & Rustamova, N. R. (2024). The impact of digitalization in inheritance law. *Qubahan Academic Journal*, 4(3), 100–134.
- Austerberry, D. (2013). *Digital asset management*. Taylor & Francis. (Cited in Akpan, H., Enyeribe, A., & Awe, M. (2022). Digital asset and PII protection using blockchain technology. <https://doi.org/10.13140/RG.2.2.33569.48486>
- Bollen, R. (2016). The legal status of online currencies: Are bitcoins the future? *Access*. <https://ru.scribd.com/document/536348131/SSRN-id2285247>
- Carata, C., & Chelaru, A. L. (2024). The evolution of digital inheritance: Legal, technical, and practical dimensions of cryptocurrency transfer through succession in French-inspired legal systems. *arXiv preprint arXiv:2410.22907*.
- Conner, J. (2011). Digital life after death: The issue of planning for a person's digital assets after death. *EPCPLJ*, 3, 30, 301–321
- Conway, H., & Grattan, S. (2017). The 'new' new property: Dealing with digital assets on death. *Modern Studies in Property Law*, 9, 102.
- Cooper, G. (2021). *Virtual property: Trusts of cryptocurrencies and other digital assets*. 27 T&T, 625.
- Đurić, Đ., & Jovanović, V. (2023). New regulation of digital assets for future business – Case of Serbia. *AGORA International Journal of Juridical Sciences*, 1, 7-16. <http://univagora.ro/jour/index.php/aijjs>
- Dutt, P. K. (2022). *The succession of digital assets in the EU*.
- Dutt, P. K. (Advisor). (2022). *The succession of digital assets in the EU* (Bachelor's thesis). DOI: 10.13140/RG.2.2.22149.01764.
- Efimova, L., Sizemova, O., & Chub, D. (2024). Digital Financial Assets: Concept and Legal Nature. *BRICS Law Journal*, 11(1), 32-57.
- Egger Castillo, A., Uldry, G., & Winogradoff, S. (2024, April 30). *Revision of the international succession law*. Charles Russell Speechlys. <https://www.charlesrussellspeechlys.com/en/>
- European Commission. (2020). *Proposal for a Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 (COM/2020/593 final)*. Retrieved from <https://eur-lex.europa.eu>
- European Commission. (2023). *An EU initiative on Web 4.0 and virtual worlds: A head start in the next technological transition* {COM(2023) 442 final}, p. 85.
- European Parliament & Council of the European Union. (2011). *Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights*. Official Journal of the European Union, L 304, 64-88.
- European Parliament & Council of the European Union. (2015). *Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market*. Official Journal of the European Union, L 337, 35-127.
- Grochowski, M. F. (2019). Inheritance of the social media accounts in Poland. *European review of private law*, 27 (5), 1195-1206
- Hagerman, M. (2023). An analysis of key cultural heritage resolutions, documents, charters, and legislation. In *Prioritizing People in Ethical Decision-Making and Caring for Cultural Heritage Collections* (pp. 3-14). Routledge.
- Hasneziri, L. (2024). Terms of exclusion or limitation of contractual liability under English civil

- law *Academic Journal of Business, Administration, Law and Social Sciences*, Vol. 10. No. 1.  
DOI: <https://doi.org/10.2478/ajbals-2024-0013>
- Hopkins, J. P. (2012). Afterlife in the cloud: Managing a digital estate. *Hastings Science and Technology Law Journal*, 5(1), 209–238.
- Joldasova, S. (2023). Civil law regulation of digital property in the age of technological advancements. *Uzbek Journal of Law and Digital Policy*, 1(2). Available at: [https://www.researchgate.net/publication/382840377\\_Civil\\_Law\\_Regulation\\_of\\_Digital\\_Property\\_in\\_the\\_Age\\_of\\_Technological\\_Advancements](https://www.researchgate.net/publication/382840377_Civil_Law_Regulation_of_Digital_Property_in_the_Age_of_Technological_Advancements) [Accessed Nov 13, 2024].
- Kadys, E. (2024). Inheriting access to a social network account. *Studia Prawno-Ekonomiczne*, (130), 9-27.
- L'impact, D. L. T. N., Le Secteur, S. U. R., & France, B. E. (2024). *Section V. ББК 94.3 (4фп)*, 88.
- Lee, L. (2024). Examining the legal status of digital assets as property: A comparative analysis of jurisdictional approaches. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.4807135>
- Lindstedt Hedström, V., & Söderlund, S. (2024). The Crypto Market Meets Regulation: A Case Study On MiCA And The Future Of CASP: How Swedish Crypto-Asset Service Providers Navigate the New Regulatory Landscape to Sustain Competitive Advantage.
- Lynner, N. B. (2017). Property interests in digital assets: The rise of digital feudalism. 38 *CLR*, 1099.
- Maia, G., & Vieira dos Santos, J. (2024). MiCA and DeFi... In *The Construction of the Legal Definition of Crypto-Assets under MiCAR, Including the Legal Subcategories: A Very Brief Summary*.
- Nathanaili, A. (1974). *Property rights in the Socialist Republic of Albania: Lecture course*. Tirana.
- Parrondo, L. (2024). Typology and classification of crypto-assets based on the MiCA regulatory framework: Contributions and limitations. In *Research Handbook on Financial Accounting* (pp. 264–282). Edward Elgar Publishing.
- Peña, K. I. C., Jaramillo, Y. A. M., & Peña, A. M. C. (2023). Instruments for the Legal Protection of Digitized Cultural Heritage in Colombia. *International Journal for the Semiotics of Law-Revue internationale de Sémiotique juridique*, 36(5), 1925-1944.
- Pereira Coelho, D. (2024). *The construction of the legal definition of crypto-assets under MiCAR, including the legal subcategories: A very brief summary*.
- Pereira Coelho, D., & Quelhas Poças, M. (2024). The construction of the legal definition of crypto-assets under MiCAR, including legal subcategories: a very brief updated summary based on the guidelines of the European Supervisory Authorities. Available at SSRN 4887419.
- Ploss, I. R. (2018). Estate planning for digital assets. *Journal of Financial Planning*, 31(4), 20-25.
- Rakha, N. A. (2023). Artificial intelligence strategy of Uzbekistan: Policy framework, preferences, and challenges. *International Journal of Law and Policy*, 1(1). <https://doi.org/10.59022/ijlp.27>. Retrieved from <https://irshadjournals.com/index.php/ijlp/article/view/27>
- Republic of Albania. (1994). *Law No. 7850, dated July 29, 1994, on the Civil Code of the Republic of Albania* (amended by Laws No. 8536, dated October 18, 1999; No. 8781, dated May 3, 2001; No. 17/2012, dated February 16, 2012; No. 121/2013, dated April 18, 2013; No. 113/2016, dated November 3, 2016; VGJK No. 69, dated December 27, 2023). Parliament of Albania. <https://www.parlament.al>
- Republic of Albania. (2020). *Law No. 66/2020 on financial markets based on distributed ledger technology*. Parliament of Albania. <https://www.parlament.al>
- Siddiqui, S. A., Khan, S., Murid, M., Asif, Z., Oboturova, N. P., Nagdalian, A. A., Blinov, A. V., Ibrahim, S. A., & Jafari, S. M. (2022). Marketing strategies for cultured meat: A review. *Applied Sciences*, 12(17), 8795. <https://doi.org/10.3390/app12178795>
- Smirnov, D., Baklanova, O., Sagalaeva, E., Zhukov, A., Tereshchenko, E., & Dolgoplov, K. (2023). Role of Legal Regulation in Preventing Corruption in the Market of Digital Financial Assets in the Context of Sustainable Development. *Journal of Law and Sustainable*

*Development*, 11(5), e557-e557.

Soukupová, J. (2024). Virtual property, digital assets, data, digital content and others: An analysis of the fragmented terminology. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.4796480>

Stasa, I. Dedej, A. (2023). Transitional Justice as a tool for polarization in Albania. *European Journal of Economics, Law and Social Sciences*, Vol. 7. No. 3.

DOI: <https://doi.org/10.2478/ejels-2023-0012>

Sy, E. (2016). The revised uniform fiduciary access to digital assets act: Has the law caught up with technology? *Touro Law Review*, 32(3), 647-650.

UK Law Commission. (2022). *Digital assets consultation paper* [online]. Retrieved November 15, 2024, from [https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24u\\_y7q/uploads/2022/07/Digital-AssetsConsultation-Paper-Law-Commission-1.pdf](https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24u_y7q/uploads/2022/07/Digital-AssetsConsultation-Paper-Law-Commission-1.pdf)

Uniform Law Commission. (2015). *Revised Uniform Fiduciary Access to Digital Assets Act*, Article 2(10). <https://www.uniformlaws.org/committees/community-home?CommunityKey=f7237fc4-74c2-4728-81c6-b39a91ecdf22>