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Relevance. Digital assets carry risks classical financial law was not built for: value crosses borders without the checks that accompany a bank transfer, and a lost key or a failed custodian puts assets out of reach [1, p. 23]. The European Union answered with Regulation (EU) 2023/1114 (MiCA); its transitional regime ran out on 1 July 2026 at the latest [2, Art. 143], and since then anyone serving EU clients without a licence is in breach of Union law [3]. Ukraine ranks eighth on Chainalysis's 2025 index of estimated crypto activity, first once adjusted for population [4], yet Law No. 2074-IX of 17 February 2022 never took effect: it still waits on tax amendments [5].

State of research. MiCA's custody and prudential rules have been examined by D. Zetzsche, J. Sinnig and A. Nikolakopoulou [6, pp. 214–220] and its perimeter by N. Divissenko [7]; digital things in Ukrainian civil law by O. Zozuliak and L. Maksymiv [8] and V. Yamkovyi and V. Anzina [9]. An integrated comparison of the two regimes is missing.

Purpose and method. This article compares the two regimes, identifies the deficiencies of the Ukrainian framework and proposes directions for reform. The method is doctrinal and functional, on sources available as of 10 September 2026.

1. Conceptual and civil-law framework. A *digital thing* exists only in a digital environment and has property value (Art. 179-1 of the Civil Code) [10]; a *virtual asset* is an intangible object of civil rights, having value and expressed as electronic data (Art. 1 of Law No. 2074-IX) [5]; a *crypto-asset* is a digital representation of value or rights transferable and storable by distributed ledger technology (Art. 3(1)(5) MiCA) [2]. They overlap without being interchangeable – a digital thing needs no ledger.

What kind of right this is remains unsettled. The obligational reading treats a token as a claim against an issuer and fails for native tokens, where none exists; MiCA works around that case rather than resolving it, exempting public offers of mining and validation rewards from Title II without taking those assets outside the regulation [2, Art. 4(3)]. The proprietary reading follows control – "the holder of the key to a virtual asset is its owner" [8, p. 45] – though the literature calls Article 179-1, inserted only in 2023 by Law No. 3320-IX, close to a dead letter [8, pp. 45-46; 11], and others would sort digital things by function [9, pp. 54–63]. Either way, possession rests on control of the private key, and rarely exclusively: a custodial client holds neither keys nor assets [6, p. 214]. An heir without the access data inherits nothing usable, and an effective pledge needs a mechanism that blocks unilateral disposal by the pledgor.

The courts moved before the legislature. On 4 March 2025, in case No. 757/5200/25-к, the Pecherskyi District Court of Kyiv lifted a seizure of virtual assets, holding that they lack the features of physical evidence under Article 98 of the Criminal Procedure Code; a day later, in No. 757/10299/25-к, it upheld one under Article 170, treating the assets as objects of property rights. The Koroliovskyi District Court of Zhytomyr followed on 20 May 2025 (No. 296/5381/25), and in Nos. 753/20849/24 and 639/3267/25 courts ordered exchanges to restore assets to victims. All are first-instance rulings, reported in [12] and held in the Unified State Register of Court Decisions; they do not yet form a settled line.

2. The European model. MiCA sorts crypto-assets by function: asset-referenced tokens (Title III), electronic money tokens referenced to a single currency (Title IV) and other crypto-assets, which carry the white-paper duties of Title II [2, Arts 3, 6]. Providers need authorisation from a national competent authority and may then serve the whole Union (Art. 65); Annex IV sets minimum capital by class, and Article 67 requires own funds equal to the higher of that amount or a quarter of the previous year's fixed overheads. By May 2026 fewer than one fifth of previously registered providers held an authorisation, about 210 against more than 1 200 [13] – a measure of the pressure of the transition, not of why individual firms did not apply. Credit institutions may take up custody after a notification under Article 60 [2].

Article 75(7) requires segregation of client holdings both on the ledger and from the provider's estate; Article 75(8) makes the provider liable for losses through an incident attributable to it, capped at market value at the time of loss, and puts on it the burden of showing the incident was independent of its operations [6, pp. 218–220]. Title VI (Arts 86–92) prohibits insider dealing and market manipulation and obliges those arranging transactions professionally to detect and report abuse [2]. Regulation (EU) 2022/2554 governs ICT risk [14]; Regulation (EU) 2023/1113 requires providers, for transfers above EUR 1 000 involving a self-hosted address, to take adequate measures to assess whether their client owns or controls it [15].

3. The Ukrainian model. Law No. 2074-IX splits virtual assets into backed and unbacked, by whether they certify property rights; Article 16 gives the National Bank the assets backed by currency values and the NSSMC the rest, and Article 19 conditions a permit on fixed statutory capital [5]. None of it operates: the final and transitional provisions tie commencement to Tax Code amendments. Draft Law No. 10225-д of 24 April 2025, merging drafts Nos. 10225 and 10225-1, was adopted as a basis on 3 September 2025 and is still in preparation for a second reading [16].

Until it is passed, the tax authorities take crypto income to be other or foreign income rather than investment profit, and they tax the sum received, not the gain [17]. With the military levy raised from 1.5 % to 5 % on 1 December 2024, that is 23 % of proceeds [18].

The standstill is not the only problem. The Civil Code applies the rules on things to digital things, while Law No. 2074-IX defines virtual assets only as intangible goods; whether possessory remedies and the actions in defence of property are available is unresolved [9, pp. 54–63]. While the law is dormant, neither supervisor can act and no provider can be licensed [5]. Law No. 361-IX makes providers reporting entities [19], but Ukrainian law has no counterpart to the Union travel rule: no duty to pass originator and beneficiary data, and no rule on self-hosted addresses [15; 19].

4. Comparison.

Table 1. Comparison of the EU and Ukrainian frameworks

Criterion	**European Union**	**Ukraine**
Status	In force; transitional regime ended 1 July 2026 [2, Art. 143]	Not in force; commencement tied to tax amendments; Draft Law No. 10225-д awaiting a second reading [5; 16]
Authorisation and capital	Licence in 3 classes; Union passport (Art. 65); own funds: the higher of €50/125/150 thousand or 25 % of overheads (Art. 67) [2]	Permit from the NSSMC (National Bank for currency-backed assets), inoperative; fixed statutory capital; no passporting [5, Arts 16, 19]
Client assets and liability	Segregation on-chain and in law, exclusion from the insolvency estate; liability for attributable incidents, capped at market value (Arts 75(7)-(8)) [2; 6, p. 219]	Separate accounting only; no exclusion from the liquidation estate; general liability, no reversal of the burden of proof [5]
Market abuse, ICT, AML	Title VI with mandatory reporting; DORA; travel rule, with self-hosted addresses assessed above EUR 1 000 [2; 14; 15]	General fraud provisions; VASPs as reporting entities; travel rule not automated [19]
Taxation	National competence; VAT exemption for exchange operations (C-264/14) [20]	De facto 23 % of proceeds, taxed as other income [17]

5. Directions for reform. Commencement comes first. Parliament should revise Draft Law No. 10225-д in the light of the committee-stage objections – the European-integration opinion and the anti-corruption expertise of August 2025, which found individual provisions non-compliant – before a second reading, or repeal the clause tying Law No. 2074-IX to the Tax Code [16]. The fiscal rules should tax realised gain rather than the sum received, extending the investment-profit regime of Article 170.2 with its carry-forward of losses [18], and a statutory VAT exemption for qualifying exchange transactions should follow the approach taken in *Hedqvist* [20].

On taxonomy and authorisation, the binary classification should give way to the threefold model of MiCA, with proportionate capital thresholds, own funds on the overhead test of Article 67 and the notification route of Article 60 for banks [2]. Supervision needs delimiting with it: the NSSMC for issuance, licensing, trading venues and a market abuse regime modelled on Title VI, the National Bank for payment tokens, fiat-referenced stablecoins and currency control [2; 5].

Civil, procedural and insolvency law need more. Sectoral legislation should state that virtual assets are a species of digital things under Article 179-1 [10]; the Code on Bankruptcy Procedures should keep client crypto-assets out of the liquidation estate, as Article 75(7) MiCA does, and statute should impose the capped liability of Article 75(8) [6, pp. 218–220]. Notarial rules should cover probate over cryptographic holdings and pledges secured by escrow.

Conclusions. The two systems diverge mainly in operation rather than in doctrine. The European Union has a complete and enforceable framework, and pays for it with a compliance burden only a minority of previously registered providers has taken on [13]. Ukraine's civil law is in one respect the sounder starting point – Article 179-1 makes property the statutory frame for digital things, and several first-instance courts have treated crypto-assets as objects of property rights, though not yet consistently – yet the sectoral statute has been inoperative for over four years, and the cost falls on holders who trade without a licensed provider and without protection if an intermediary fails. Three changes matter most: cutting commencement loose from tax reform, taking over the MiCA taxonomy, and putting client assets beyond an insolvent intermediary's reach.

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