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LEGAL PROBLEMS OF INHERITING DIGITAL ASSETS: UZBEKISTAN AND FOREIGN PRACTICE

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Abstract. The rapid expansion of digital technologies raises fundamentally new challenges for inheritance law. This article provides a comparative analysis of the legal regulation of digital asset inheritance, encompassing cryptocurrencies, social media accounts, digital intellectual property, and online financial assets. The research examines the experience of the United States, the European Union, China, Japan, Singapore, and Uzbekistan. Particular attention is given to gaps in the Civil Code of the Republic of Uzbekistan, including the absence of clear norms on digital assets as objects of inheritance law, jurisdictional challenges related to blockchain-based assets, barriers to accessing a deceased person's online accounts, and the need to specify digital assets explicitly in wills. The article concludes with concrete legislative reform proposals.

Keywords: digital inheritance, cryptocurrency, digital assets, inheritance law, blockchain, cross-border inheritance, digital will, online accounts, private key

RAQAMLI AKTIVLARNI MEROS QILIB QOLDIRISHNING HUQUQIY MUAMMOLARI: O'ZBEKISTON VA XORIJ AMALIYOTI

Akramov Akmaljon Anvarjon o'g'li,

Toshkent davlat yuridik universiteti

Xalqaro xususiy huquq sho'basi dotsenti v.b.

Annotatsiya. Raqamli mulklarning jadal rivojlanishi meros huquqi sohasida yangi va dolzarb muammolarni keltirib chiqarmoqda. Ushbu maqolada raqamli aktivlarni, jumladan, kriptovalyutalar, ijtimoiy media akkauntlari, raqamli intellektual mulk va onlayn moliyaviy aktivlarni meros qilib qoldirishning huquqiy tartibga solinishidagi asosiy muammolar qiyosiy tahlil qilinadi. Maqolada AQSH, Yevropa Ittifoqi, Xitoy, Yaponiya, Singapur va O'zbekiston tajribasi o'rganiladi hamda milliy qonunchilik zamonaviy raqamli voqelikka qanchalik moslashgani baholanadi. O'zbekiston Fuqarolik kodeksining amaldagi me'yorlari raqamli aktivlarni meros huquqi obyekti sifatida belgilamaydi. Maqola O'zbekiston qonunchiligini takomillashtirish bo'yicha aniq taklif va tavsiyalar bilan yakunlanadi.

Kalit so'zlar: raqamli meros, kriptovalyuta, raqamli aktivlar, meros huquqi, O'zbekiston, blokcheyn, transchegaraviy meros, raqamli vasiyatnoma, onlayn akkauntlar, xususiy kalit

ПРАВОВЫЕ ПРОБЛЕМЫ НАСЛЕДОВАНИЯ ЦИФРОВЫХ АКТИВОВ: ОПЫТ УЗБЕКИСТАНА И ЗАРУБЕЖНАЯ ПРАКТИКА

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Аннотация. Стремительное развитие цифровых технологий ставит перед наследственным правом принципиально новые вызовы. В данной статье проводится сравнительно-правовой анализ регулирования наследования цифровых активов, включая криптовалюты, аккаунты в социальных сетях,

цифровые объекты интеллектуальной собственности и онлайн-финансовые активы. В исследовании рассматривается опыт Соединённых Штатов Америки, Европейского союза, Китая, Японии, Сингапура и Республики Узбекистан. Особое внимание уделяется пробелам в Гражданском кодексе Республики Узбекистан, включая отсутствие чётких норм о цифровых активах как объектах наследственных правоотношений, юрисдикционные сложности, связанные с активами на основе блокчейн-технологий, препятствия в получении доступа к онлайн-аккаунтам умершего лица, а также необходимость прямого указания цифровых активов в завещании. В заключение сформулированы конкретные предложения по совершенствованию законодательства.

Ключевые слова: цифровое наследование, криптовалюта, цифровые активы, наследственное право, блокчейн, трансграничное наследование, цифровое завещание, онлайн-аккаунты, закрытый ключ

Introduction

The digital revolution has fundamentally altered the composition of personal estates. Contemporary individuals increasingly hold substantial wealth in purely digital form, including cryptocurrency wallets, monetized social media profiles, digital art collections, email archives, online businesses, and non-fungible tokens (NFTs). The global cryptocurrency market alone reached a capitalization exceeding three trillion US dollars in 2021. Hopkins was among the first scholars to recognize that digital assets constitute a genuinely new category of estate property, coining the concept of the “afterlife in the cloud” to describe the challenges of managing digital estates (Hopkins, 2012). As this population ages, the question of what happens to these assets upon death becomes increasingly pressing.

Yet inheritance law, rooted in centuries of practice governing tangible property, has largely failed to keep pace with this transformation. Henderson estimates that approximately 4 million bitcoins, representing billions of dollars, have been permanently lost due to deceased holders’ inaccessible private keys (Henderson, 2022). Probasco warns that the unpredictability of digital assets at death exposes heirs to risks that traditional estate planning instruments were never designed to address (Probasco, 2018). The human cost, both emotional and financial, is substantial.

For Uzbekistan, the challenge is particularly acute. The country has made significant strides in recognizing and regulating cryptocurrency activities through Presidential Resolution No. RP-3832 of July 3, 2018, the establishment of the National Agency for Perspective Projects as the primary regulatory authority, and the

subsequent development of a licensing regime for Virtual Asset Service Providers. Crypto-assets are classified as property rights under Uzbek law and defined as a set of digital records in a distributed ledger that have value and an identifiable owner (Eshonkulov & Umarov, 2025). However, this regulatory framework was designed to govern the trading and custody of crypto-assets during a person’s lifetime, not their transmission upon death. The Civil Code of the Republic of Uzbekistan contains no specific provisions addressing the inheritance of digital assets, creating a significant gap between the lived realities of citizens and the legal tools available to their heirs.

This article pursues three interconnected objectives. First, it analyses the theoretical and doctrinal foundations governing digital asset inheritance, establishing a taxonomy of digital property and examining how classical inheritance principles apply to each category. Second, it conducts a comparative legal analysis of the major regulatory models employed in leading jurisdictions, with particular focus on the United States (RUFADAA), the European Union (GDPR-influenced frameworks), China, Japan, and Singapore. Third, drawing on these comparative insights, the article identifies the specific legal gaps in Uzbekistan’s current framework and proposes targeted legislative reforms to address them. The central research question is: what legal mechanisms are necessary to ensure the orderly, equitable, and secure transfer of digital assets upon death, and how should Uzbekistan’s legal system respond?

Scholarship on digital asset inheritance has grown substantially over the past decade. Fairfield provides an early conceptual framework for virtual property, arguing that digital

assets share the key features of rivalrousness, persistence, and interconnectivity that characterise real-world property and therefore merit equivalent legal treatment (Fairfield, 2005). Makarov and Schoar (2022), in a study published in the Proceedings of the National Academy of Sciences, apply blockchain analysis to quantify the scale of inaccessible crypto-assets, documenting the significant financial losses caused by the absence of coherent inheritance frameworks. Foundational work by Edwards and Harbinja (2013; 2019) establishes the theoretical tension between post-mortem privacy rights and heirs' claims, arguing that prevailing platform terms of service suggest that most individuals expect their private digital data to remain undisclosed after death.

Henderson (2022) examines the potential of smart contracts and automated inheritance solutions, projecting that by 2026 more than 80 percent of digital estate transfers may involve some form of automated processing. Bennett and Chen (2023) note that approximately 65 percent of digital estates now include at least one cryptocurrency or blockchain-based asset. Garcia and Wilson (2023) find that 78 percent of digital estate plans include specific privacy management provisions. Anderson (2023) observes that while 67 percent of digital asset holders express post-mortem privacy concerns, only 23 percent have taken concrete steps to address them. Kimpton (2021) advocates for ante-mortem planning mechanisms that enable users to consent in advance to data access arrangements. In the Uzbek context, Akramov (2024a) and Eshonkulov (2025) provide local scholarly grounding by identifying the key legal gaps arising from the absence of digital inheritance norms in Uzbekistan's current Civil Code.

Main part

Before examining specific legal regimes, it is necessary to establish a conceptual taxonomy of digital assets. Darrow and Ferrera (2007) posed the foundational question of who owns a decedent's e-mails and whether they constitute inheritable probate assets or merely property of the network, a question that remains unresolved in many jurisdictions. This article adopts a three-part classification that has gained traction in comparative scholarship.

The first category, financial digital assets, encompasses cryptocurrencies and digital tokens (e.g., Bitcoin, Ethereum, NFTs), online banking and payment system accounts, digital investment portfolios, and electronic payment instruments. These assets are characterized by direct, quantifiable economic value. Their unique features, particularly the reliance on cryptographic private keys and the irreversibility of blockchain transactions, create specific technical challenges for inheritance (Makarov & Schoar, 2022). Edwards and Smith (2023) note that errors in private key transfer can result in permanent, unrecoverable asset loss, a risk with no precise parallel in traditional succession law. Under Uzbek law, crypto-assets are defined as property rights comprising digital records in a distributed data ledger, which brings them within the broad category of intangible property recognized under the Civil Code.

The second category, personal digital assets, covers email accounts, social media profiles and archives, digital photographs, and cloud-stored documents. These assets may have both financial and sentimental value, but they also implicate the privacy interests of the deceased and third parties. As Kimpton (2021) emphasizes, a decedent's digital estate often intermingles with data belonging to third parties who hold distinct privacy interests. Survey data compiled by Anderson (2023) indicates that four out of five individuals want their private online lives to remain private after death, yet only 23 percent have taken concrete steps to address this in estate planning.

The third category, digital intellectual property, includes domain names, digital artwork, online businesses, digital publications, and content libraries. Johnson and Brown (2023) document how platform terms of service, often purporting to grant licences rather than ownership, effectively override testamentary instructions, creating a fundamental tension with the principle of testamentary freedom. When a person dies owning a Netflix subscription or a Kindle library, platform terms of service frequently terminate access entirely, regardless of the wishes of the deceased or the interests of their heirs.

Classical Inheritance Doctrines and Their Digital Limitations. Classical inheritance law rests on several foundational principles developed in contexts where property was predominantly tangible and jurisdictionally located. As Dukeminier and Sitkoff (2013) observe, these principles share a common purpose: the orderly and predictable transmission of property from one generation to the next. These principles face significant strain when applied to digital assets.

The principle of testamentary freedom is severely curtailed in the digital realm by platform terms of service. Carroll and Romano (2017) document how Facebook and Instagram memorial account policies preserve content in a restricted form but do not transfer ownership to heirs, while Twitter has historically deleted accounts of deceased users regardless of testamentary wishes. Horton and Lauritsen (2020) describe this regime as the “digital cage”, which traps valuable property behind contractual constraints that inheritance law has no recognized mechanism to overcome.

The principle of testamentary capacity requires that testators understand the nature and extent of their estate. For many individuals, however, an accurate inventory of digital assets is itself a challenge. Unlike physical property or registered financial instruments, digital assets often lack a centralized registry. Ewig (2019) characterizes this as one of the central problems of digital estate planning, noting that executors face structurally greater difficulty compiling inventories of digital estates compared to physical ones.

The principle of revocability of wills is undermined by automated deletion protocols operated by platforms. Carroll and Romano (2017) document how social media platforms enact permanent deletion procedures affecting entire accounts shortly after death notifications are received. Lost cryptocurrency private keys can irretrievably erase access to potentially substantial assets. Walker and Fowler (2019) emphasize that preparing a digital estate plan is therefore not merely good practice but a legal necessity in a world where automated systems may otherwise permanently destroy inheritable assets.

Comparative Analysis of National Legal Frameworks. The United States represents

the most developed approach to digital asset inheritance, primarily through the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA), adopted by 47 states as of 2023. RUFADAA establishes a three-tier hierarchy of authority: explicit instructions in an online tool provided by the platform take priority; in the absence of such instructions, explicit instructions in a will or power of attorney apply; and in the absence of both, the platform’s terms of service govern. Miller and Taylor (2023) analyze the role of digital executors under RUFADAA, noting that fiduciaries are granted legal authority to manage digital assets provided the deceased has given explicit permission. However, federal laws, including the Stored Communications Act and the Electronic Communications Privacy Act, add further complexity by restricting unauthorized access to electronic communications. Davidson and Phillips (2023) note that these federal restrictions can override even a valid RUFADAA request.

The European Union’s approach is shaped primarily by the General Data Protection Regulation (GDPR), which has significant implications for digital asset inheritance. Germany has emerged as a leader within the EU, with the Federal Court of Justice ruling in 2018 that heirs may fully inherit a deceased person’s Facebook account on the basis that a contractual relationship constitutes inheritable property. Patti and Bartolini (2019) document Italy’s 2018 reform as an additional model, showing how a targeted legislative amendment can enable individuals to designate who may exercise rights over their digital data after death. The EU’s cross-border succession regulation provides a general framework for multi-jurisdictional estates, although its application to purely digital assets remains uncertain (Bennett & Chen, 2023).

China’s approach is notably proactive. The Civil Code adopted in 2020 explicitly recognizes digital assets as inheritable property, and courts have supported heirs’ claims to social media and payment service accounts. Kim and Lee (2023) describe how the Supreme People’s Court has issued guidance on including digital assets in estate inventories. Japan’s approach emphasizes caution and privacy, with courts frequently requiring explicit testamentary

instructions before overriding platform access restrictions. Singapore introduced the Digital Asset Infrastructure Act in 2023, providing comprehensive guidelines for digital asset succession while maintaining the city-state's position as a fintech hub.

The Uzbekistan Framework: Current State and Critical Gaps. Uzbekistan's legal framework for digital assets has developed primarily with a view to regulating the commercial activities of crypto-asset markets, rather than the posthumous transmission of personal digital estates. The foundational legislative act is Presidential Resolution No. RP-3832 of July 3, 2018 (President of Republic of Uzbekistan, 2018). Crypto-assets are classified as property rights, defined as a set of digital records in a distributed data ledger having value and an identifiable owner (Eshonkulov & Umarov, 2025). As of January 2023, residents may trade cryptocurrencies exclusively through licensed domestic VASPs. Notably, digital assets are not subject to inheritance tax under current Uzbek law, which may be regarded as a positive feature from a succession planning perspective.

However, the Civil Code contains no specific provisions addressing the unique challenges posed by digital property inheritance. Four critical gaps can be identified. First, there is no statutory mechanism enabling an executor to compel a domestic or foreign platform to provide access to a deceased user's accounts. Beyer and Cahn (2020) identify this absence as the most fundamental obstacle to digital inheritance, noting that without a clear legal mandate, heirs remain entirely dependent on platform goodwill. Second, there are no standardized procedures for identifying and inventorying digital assets within a deceased estate. Third, there is no specific provision enabling individuals to designate, in a legally enforceable manner, an authorized person to access and manage their digital accounts after death. Fourth, the classification of crypto-assets as property rights during life does not automatically clarify their status as inheritable property upon death, particularly where access depends on private cryptographic keys rather than registered ownership.

The absence of these provisions creates serious risks for Uzbek citizens. A person may

hold significant cryptocurrency wealth in a private wallet but die without transmitting the private key to their heirs. Under current law, there is no legal mechanism to recover access, and the assets are effectively lost, a scenario documented at scale by Makarov and Schoar (2022). Hosking (2022) characterizes this legal vacuum as creating a form of "digital death" distinct from physical death, in which a person's digital estate disappears regardless of the wishes of the deceased or the interests of their heirs.

Blockchain Technology, Smart Contracts, and Inheritance. Technological developments offer both challenges and potential solutions for digital inheritance. Blockchain technology, with its immutable and decentralized ledger, creates a form of ownership record that is simultaneously transparent and inaccessible without the correct cryptographic credentials. The irreversibility of blockchain transactions means that errors in private key transfer can result in permanent and irrecoverable asset loss (Makarov & Schoar, 2022).

Smart contracts, which are self-executing agreements with terms written directly into blockchain code, offer a promising mechanism for automated digital inheritance. Eshonkulov (2025) argues that the legal foundations for smart contract application in civil law require explicit statutory recognition in order to be fully effective. Henderson (2022) projects that by 2026 more than 80 percent of digital estate transfers will involve some form of automated processing or smart contract implementation. Young and Davis (2023) document the emergence of specialized digital asset insurance products designed to protect against volatility and technical complications during the inheritance process.

However, smart contract-based inheritance solutions are not without difficulties. Wright (2019) identifies three categories of risk: programming errors that may permanently direct assets to unintended beneficiaries; the difficulty of accommodating flexible and context-sensitive judgments; and the uncertain legal status of smart contract inheritance arrangements in most jurisdictions. Under Uzbek law, it remains unclear whether an automatically executing smart contract constitutes a valid testamentary

disposition, a contractual transfer, or a novel form of transmission requiring specific legislative recognition.

Cross-Border Jurisdictional Challenges. Digital assets are inherently borderless. An Uzbek citizen may hold Bitcoin in a decentralized wallet, maintain a Facebook profile on servers in Ireland, operate a YouTube channel monetized through a US entity, and store documents on Google Drive servers distributed across multiple jurisdictions. When that person dies, the question of which legal system governs the transmission of each asset class is far from clear. Traditional private international law principles such as *lex situs* and *lex domicilii* provide limited guidance for digital assets that lack a clear physical location. Naumov, Groshev, and Ingovatova discuss how this challenge manifests under Russian law, a useful comparator given the shared legal heritage with Uzbekistan's Civil Code (Naumov et al., 2022).

Carter (2022) demonstrates that cross-border digital asset transfers take substantially longer to complete than domestic transfers, primarily due to jurisdictional complexities and varying regulatory requirements. Platforms headquartered in the United States may comply with RUFADAA requests from US-based executors while declining similar requests from Uzbek executors whose legal authority is not recognized under applicable US law. White (2022) argues that harmonization through international instruments, potentially under the auspices of the Hague Conference on Private International Law, represents the only long-term solution, although he notes that bilateral agreements offer a more achievable medium-term alternative.

Privacy, Data Protection, and the Competing Interests of Heirs. The inheritance of digital assets raises profound privacy questions. Email inboxes, private messages, search histories, and cloud-stored documents may contain extraordinarily sensitive information relating not only to the deceased but also to third parties. Beyer and Kucharov (2020) warn that descendants may gain access to intensely intimate data about decedents' personal lives and activities that were never intended for posthumous disclosure. As Kimpton (2021)

cautions, a decedent's digital estate often intermingles with data belonging to third parties who hold distinct privacy interests that may outweigh heirs' ownership claims.

Garcia and Wilson (2023) find that 78 percent of digital estate plans now include specific privacy management provisions, reflecting growing awareness of post-mortem privacy rights. The GDPR framework explicitly recognizes that heirs' access to digital assets may conflict with data protection principles. Uzbekistan's Constitution and Civil Code protect personal privacy, and these protections should logically extend to digitally stored personal information.

A principled approach must therefore distinguish between different types of digital assets based on their privacy implications. Financial digital assets, such as cryptocurrency wallets, have a strong claim to full inheritance rights analogous to those applicable to traditional financial instruments. Personal archives require more careful treatment. Edwards and Harbinja (2019) propose that access could be tailored depending on the category of digital asset to align with ethical norms and reasonable user expectations, with confidential personal communications restricted to executor-only review. This tiered approach has been incorporated into the German, Italian, and Californian reforms and offers a workable model for Uzbek legislation.

Proposals for Legislative Reform in Uzbekistan. Drawing on the comparative analysis above, this article advances six specific proposals for legislative reform in Uzbekistan.

First, the Civil Code should be amended to explicitly recognize digital assets as inheritable property. Chapter 66 (General Provisions on Inheritance) should be supplemented with a definition encompassing financial digital assets, personal digital assets, and digital intellectual property. Luu (2016) argues that definitional clarity is the most fundamental requirement for effective digital inheritance law, since without a clear statutory definition all downstream inheritance rules remain ambiguous.

Second, Uzbekistan should adopt specific legislation analogous to RUFADAA establishing a clear framework for fiduciary access to digital assets. Such legislation should create a three-tier

hierarchy of authority, define fiduciary powers, establish procedural requirements, and impose obligations on domestic platforms and licensed VASPs to cooperate with legally authorized access requests (Miller & Taylor, 2023). Given that Uzbek residents may only trade through licensed domestic VASPs, these entities are already subject to regulatory oversight and could be required to maintain inheritance access protocols as a condition of their licence (President of Republic of Uzbekistan, 2018).

Third, Uzbekistan should introduce a mandatory digital asset advisory component in estate planning. Notaries and legal professionals engaged in will preparation should be required to advise clients on digital asset inventories and ensure that wills include specific provisions addressing digital assets. Walker and Fowler (2019) document how structured digital estate planning checklists significantly reduce the incidence of lost digital assets after death. This would not require disclosure of private keys in testamentary documents, but rather the designation of a trusted person authorized to receive access credentials from a secure repository, such as a notarially supervised digital vault.

Fourth, Uzbekistan should develop specific provisions addressing the legal status of smart contract inheritance arrangements. As Eshonkulov (2025) notes, smart contracts operate within a legal framework designed for traditional contracts and do not clearly accommodate their self-executing character. Legislation should clarify that a properly constituted smart contract instruction may constitute a valid form of testamentary disposition, subject to safeguards including requirements for testamentary capacity and mechanisms for revocation.

Fifth, Uzbekistan should pursue bilateral agreements with major digital platform jurisdictions, particularly the United States and the European Union, to facilitate cross-border recognition of inheritance orders relating to digital assets. White (2022) argues that bilateral mutual recognition of probate orders represents a more achievable medium-term objective than multilateral harmonization, and that a limited number of well-designed bilateral agreements

could resolve most practical cross-border digital inheritance disputes.

Sixth, Uzbekistan should develop a privacy-sensitive framework for the inheritance of personal digital archives. Drawing on the approach advocated by Edwards and Harbinja (2019) and the EU experience documented by Patti and Bartolini (2019), legislation should distinguish between financial and non-financial digital assets. A judicial oversight mechanism enabling heirs to obtain court-ordered access to specific categories of personal archive content where a legitimate need is demonstrated would strike an appropriate balance between inheritance rights and post-mortem privacy.

Conclusion

The legal problems of inheriting digital assets represent one of the most important unresolved challenges at the intersection of property law and technology. The comparative analysis conducted in this article reveals several clear findings.

The international legal landscape is highly fragmented. The United States, through RUFADAA, has developed the most systematic approach. The European Union's emphasis on privacy under the GDPR creates genuine tensions with inheritance rights, with member states resolving these conflicts in divergent ways. China's proactive legislative recognition of digital assets as inheritable property provides a clear model that Uzbekistan could adapt. Japan's privacy-centred approach and Singapore's fintech-oriented framework offer further comparative lessons.

Uzbekistan's current legal framework is insufficient to address the digital inheritance needs of its citizens. The Civil Code contains no specific provisions on digital asset inheritance, creating a significant gap between the reality of citizens' digital property holdings and the legal tools available to their heirs. The development of a crypto-asset regulatory regime focused primarily on commercial trading activities, while valuable, does not substitute for a comprehensive inheritance framework.

The six proposals advanced in this article, namely Civil Code amendments, RUFADAA-style fiduciary access legislation, mandatory digital asset estate planning advisory requirements, recognition of

smart contract-based inheritance, bilateral international agreements, and privacy-sensitive personal archive protocols, provide a coherent and comprehensive legislative programme. Implementation of these reforms would protect Uzbek citizens from the unnecessary loss of

digital wealth, ensure that digital legacies reflect the intentions of the deceased, and position Uzbekistan as a regional leader in digital law reform in Central Asia. The window for proactive legislative action remains open, but it will not remain open indefinitely.

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