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Digital currency and associated categories in the legislation of the Russian Federation: problems of distinction.

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Abstract: The article discusses the correlation and differentiation of the concept of "digital currency" with such legal categories as "digital financial assets", "digital rights", "electronic money", "cash", "money surrogate" and "information". At the same time, the study described in the article focused on two aspects: the legal definition of digital currency, and the concept formulated by the author. In particular, a legal conflict in Russian legislation was disclosed in the form of two mutually contradictory norms: the rule on the possibility of using digital currency as a means of payment and (or) investment, and the rule of prohibition of the issuance and circulation of money substitutes on the territory of the Russian Federation. The results of the study showed the advantage of the author's approach to the definition of digital currency for solving issues of differentiation with related legal categories.

Key words: cryptocurrency, digital currency, digital financial assets, digital rights, cash, money surrogate.

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INTRODUCTION

To accurately define the concept and its essence, all adjacent concepts that have a certain degree of similarity in at least one of the properties, signs or functions must be in correlation to achieve consistency. In relation to digital currency, these include the following: digital financial assets, digital rights, electronic money, non-cash funds, cash, money substitutes, information and some others. For a comparative analysis of these categories, both the legal definition of digital currency and the author's own definition of the concept of "digital currency" proposed by the author will be used.

In accordance with the author's approach, digital currency is understood as a digital object intended for payment functions, contained in the form of a set of electronic data (digital code or designation) in an information network that operates on the basis of distributed ledger technology Relations.

THE RATIO OF "DIGITAL CURRENCY" TO "DIGITAL FINANCIAL ASSET "

According to Federal Law No. 259-FZ of July 31, 2020 "On Digital Financial Assets, Digital Currency and on Amendments to Certain Legislative Acts of the Russian Federation" (hereinafter referred to as the DFA Law), digital financial assets defined as digital rights, including monetary claims, the possibility of exercising rights under equity securities, the rights to participate in the capital of a non-public joint-stock company, the rights to demand the transfer of equity securities issued in accordance with the procedure established by the law on DFAs, for the issuing, accounting and circulation by creating (changing) entries in the information system based on a distributed registry, as well as in other information systems. Consequently, digital financial assets as a type of digital rights imply the legal nature of such assets, which entails the existence of relative legal relations between the owner of the digital financial asset and the person issuing this asset. The concept of digital currency in the law on DFA includes as a qualifying feature that indicates the opposite: in relation to a digital currency, there should not be anyone obliged to the owner of such a digital currency. However, the law establishes entities ("information system operator" and/or "information system node") who have obligations to the owner of the digital currency. In addition, these entities must monitor the issuance and circulation of digital currency for compliance with the rules of the information system. Therefore,

it is impossible to distinguish between digital currencies and digital financial assets based on the presence or absence of an entity's obligation to the owner of its assets.

At the same time, it is impossible to combine these assets into one group based on the existing framework of an information system operating on the basis of a distributed registry. Despite the fact that such a feature is established in relation to digital financial assets, in essence, it is optional, since the law on DFAs establishes an exception that allows other objects created in "other information systems" to be classified as digital financial assets. Turning to the concept of "digital currency" in force in the law on DFA, such a feature is not directly defined there, although it flows from the initial meaning that the information system (in which the digital currency has been created and operated) as a general rule must meet the requirements of decentralization (there should not be anyone obliged to the owner of the digital currency). Decentralization, in turn, is possible only with the use of a distributed ledger and only within the framework of a peer-to-peer network.

And finally, it is impossible to clearly correlate these two objects based on the attribution to one or another object of civil rights. The Law on DFAs directly establishes the civil law characteristics of a digital financial asset as a type of digital right, which in turn is one of the property rights. However, it is not possible to clearly define the position of "digital currency" from the content of the definition of "digital currency" in the existing system of objects of civil rights. At the same time, the law on DFAs and numerous bills that arose after the adoption of this law, recognise "digital currency" as "property". At the same time, the definition of "digital currency" as "property" is vague, since there is no such legal term within the civil legislation framework, but there are only separate provisions on such equating for the purposes of legislation in a particular area, primarily in taxation. Thus, the legal characteristics of digital currency within the framework of the system of objects of civil rights are not defined and it is not yet possible to correlate the "digital currency" with the "digital financial asset" on this basis with reliable accuracy.

Recently, amendments and additions have been made to the legislation regulating digital financial assets. However, they did not touch upon the definition of "digital financial assets", but only slightly changed certain aspects of legal regulation in this area. Despite the fact that the normatively fixed definitions of digital financial assets have not been adjusted, a ban on accepting digital financial assets as a counter-provision for goods or services was included in the legal means that form the legal regime of this object.

Thus, at the moment there are no clear grounds from a legal point of view for a clear delimitation of the two assets under consideration, even on the most key and defining features.

In this regard, V.A. Sadkov's approach deserves attention, proposing to consider digital financial assets not as a separate type of objects of civil rights, but as a new way to confirm the belonging of one or another of the objects of civil rights already known to the domestic legal order to a specific person using distributed ledger technology. Therefore, the objects of civil legal relations in this case, in his opinion, will not be digital financial assets, but directly those rights that are certified in the abovementioned way (Sadkov 2022: 11-12). However, in relation to digital currencies, an approach that denies the independence of this object in the system of objects of civil rights is not applicable since digital currencies are not a "digital duplicate" of other objects, but independent units of civil circulation.

Despite the presence of a theoretical justification for distinguishing between the categories of "digital currency" and "digital financial assets" in legal science, formally, there is no guarantee that these objects can be distinguished. A potential solution for this problem can be applying the author's approach to the definition of digital currency.

Based on the use of distributed ledger technology in the issuance and circulation, these assets should be classified into one group, since the presence of an exception in the current law on DFAs (which makes it possible to classify other assets created in "other information systems" as digital financial assets) seems to be an unjustified expansion of the scope of this concept.

Based on its place in the system of objects of civil rights, the "digital financial asset" is reliably located in the group of "property rights", and the "digital currency" is proposed to be equated with "money" in its civil law definition. There will also be a specific set of legal means that form the legal regulation of these objects, since with the correct consolidation of the features in the definition of each of the objects, it will be possible to establish a system of legal means that is more effective for the purpose of achieving a balance of private and public interests, which will differ significantly, and not intersect, as is the case in the current circumstances.

The importance of having clear distinctions between digital currency and digital financial assets in the legislation not only appears at the theoretical level, but also has direct implications for practice. A.P. Alek-

seenko (2021: 376) confirmed this judgment using the example of the legislation of Singapore on the relevant legal relations since when investors are interested in using Singapore exchanges when making transactions with digital currency, they recognize digital currency and provide guaranteed judicial protection when making transactions with it.

THE RATIO OF "DIGITAL CURRENCY" WITH "DIGITAL RIGHTS "

In accordance with the Civil Code of the Russian Federation, digital rights are recognized as obligations and other rights outlined in the law, the content and conditions for the implementation of which are determined in accordance with the rules of the information system that meets the criteria established by law. Exercising, disposing of, including transferring, pledging, encumbering a digital right in other ways or restricting the disposal of a digital right is possible only in the information system without recourse to a third party. The "digital rights" at the moment include "digital financial assets" and "utilitarian digital rights".

We can agree with the opinion that "digital rights" are just a form certifying the existence of any already known right of a proprietary law, law of obligations or corporate nature, which is why it is not an independent legal entity (Novoselova et al. 2019: 43). At the same time we acknowledge that this problem was identified when the provisions on digital rights were still at the stage of the relevant bill (Sitdikova and Sitdikov 2018: 78).

Based on the fact that "digital rights" can only include those rights that are directly named as such in the law, as well as due to the lack of an indication of this in the norms of the law governing legal relations related to digital currency, at first glance there seem to be no grounds for classifying "digital currency" as "digital rights". This conclusion can be justified by the fact that the "digital currency" in any interpretation is an object, not a right to an object. However, bearing in mind that digital rights may include the right to demand the transfer of goods, as well as the fact that digital currency is recognized as property by many criteria, a situation where the digital right essentially consists of the right to demand the transfer of digital currency does not seem fundamentally impossible. Thus, "digital rights" and "digital currency" in their civil law definition belong to completely different objects of civil rights: in the first case, to the "property rights" category, and in the second case, the category is not clearly identifiable based on the current legislation but applying the approach proposed by the author, "digital currency" will be categorised as "goods" as per its legal definition.

A common feature for these objects is the existence and turnover only within the framework of the information system. At the same time, for "digital rights" this is the only and therefore qualifying feature.

By their legal nature, "digital rights" are close to the Roman category of resinconporales (incorporeal thing), since they represent the right to a right (Vasilevskaya 2004: 102). This brings both objects under consideration closer based on "disembodiment", despite the difference in position in the system of objects of civil rights.

THE RATIO OF "DIGITAL CURRENCY" WITH "ELECTRONIC MONEY"

In Federal Law No. 161-FZ of June 27, 2011 "On the National Payment System", the legal definition of "electronic money" is formulated using a double disposition. In the first part of the definition, a positive disposition is established that fixes the signs of electronic money: funds that are previously provided by one person to another person, taking into account information on the amount of funds provided without opening a bank account, to fulfill the monetary obligations of the person who provided the funds to third parties and in respect of which the person who provided the funds has the right to transmit orders exclusively with the use of electronic means of payment".

The second part of the definition contains a negative disposition, pointing to cases when an object cannot be recognized as "electronic money" despite the fact that this object meets the signs of a positive disposition: funds received by organizations engaged in professional activities in the securities market, clearing activities, activities of the operator of the financial platform, activities to organize attraction are not electronic money investments, management of investment funds, mutual funds and non-state pension funds, the ac-

tivities of operators of information systems in which digital financial assets are issued, and (or) the activities of operators of the exchange of digital financial assets.

Seemingly, the need for a separate establishment of exceptions and the very volume of these exceptions testifies to the low quality of legal technique in formulating the definition of "electronic money". Due to this, it is necessary to turn not to the legal definition but to the legal nature of this phenomenon.

Among the common legal features of the two objects under consideration, digital currency and electronic money, the following can be distinguished: intangible existence, circulation without opening a bank account, an exclusively remote method of settlements, as well as the presence of written evidence of the existence of both in the real world (Abramova 2019: 20).

At the same time, the differences between these two objects are very significant. The legal structure of "electronic money" is built in such a way that it makes it possible to unambiguously attribute this object to the number of obligations rights. The wording of the DFAs law-enforced concept of "digital currency" indicates the absence of a person obliged to the owner of such an object. However, the established exceptions to this rule almost completely neutralize it. Against this background, the approach proposed by the author in relation to digital currency will provide clear grounds for classifying on this basis in such a way that these objects will be accordingly assigned to different groups.

Differences in how these objects occur in practice are significant, however, based on the current provision of the law on DFAs, it is not possible to draw such a conclusion. In the legal definition of "digital currency" there is no indication to make it possible to establish a mechanism for the emergence of rights for the "owners" of such an object. The provision of the law on DFAs on the issue of digital currency indirectly provides a mechanism for the primary emergence of rights in relation to digital currency in the form of "actions aimed at providing the possibility of using digital currency by third parties". It follows on from this formulation that a subject is necessary to create a digital currency, since there is an indication of the presence of "actions" as the primary basis for the emergence of a right in relation to a digital currency, and "action", in turn, is ontologically a property and a sign of the subject.

At the same time, from a doctrinal point of view, these objects can be confidently differentiated based on the object emergence or non-occurrence of ownership. According to M.A. Korostelev (2015: 10), electronic money, as well as non-cash funds, are not an object of ownership, since the structure of legal relations related to the two above mentioed objects provides for a third party intermediary (bank in the case of non-cash funds or operator in the case of electronic money) as a mandatory participant. Therefore, such situation fundamentally contradicts the legal nature of the ownership right which, being an absolute legal relationship, provides for the possibility of the direct exercise by the owner of his rights (Korostelev 2015: 10).

Thus, the legal structure of "digital currency" currently available in the DFA Law does not allow to draw a clear line with the legal category of "electronic money" based on the presence or absence of an emission centre.

Applying the author's approach to the definition of digital currency and its types, a common feature for the categories of "digital rights" and "digital currency" will be the property of turnover only within the network without intermediaries. Other features will be: a different proprietary nature (a separate category within the framework of property rights in the case of digital rights and "money" in the case of digital currencies), as well as different functionality (payment and savings functions for digital currency and investment, as well as title functions in the case of digital rights). At the same time, it will be possible to maintain the current state, in which the role of a universal means of payment will not be "monopolized" by any of the means of settlement. A similar idea was supported by V.V. Vitryansky (2006: 26) in relation to other forms of non-cash money even before the emergence of digital currency as a new object of settlement.

THE RATIO OF "DIGITAL CURRENCY" TO "INFORMATION"

This ratio can be carried out by many indicators at once, since there are many common features and significant differences between these objects.

The current concept of "digital currency" in the law on DFAs gives grounds for classifying "digital currency" as "information", since it establishes a "set of electronic data" as a generic concept. However, this approach cannot be considered to be appropriate since the meaning, or otherwise the value, of "information" in the civil law sense lies in its content, and not in it as such. Thus, the use of the category of "information"

to determine the civil law regime of any virtual objects, including "digital currency", should be considered erroneous due to the fact that such a situation gives rise to the creation of a "parallel reality" in the form of a turnover of mirror copies of ordinary objects. This position was expressed by L.A. Novoselova (2017: 40) long before it acquired a legislative form, and remains relevant now.

Another criticism of this approach claims that when the "digital currency" is determined it becomes inoperable for determining the place of the "digital currency" in the system of objects of civil rights through the category of "information". L.G. Efimova (2019: 20) fairly states that "information" cannot be strictly formally clearly classified in the system of objects of civil rights, in a broad sense it can be understood as an indefinitely large number of objects, but at the same time, a different legal regime should be established for these objects.

Another common feature defined by A.V. Stepanchenko, can be called the "non-codification" nature of both of the above objects, since, based on the current system of legal regulation in the relevant areas, these objects are devoid of a direct civil law component (Stepanchenko 2019: 515). However, this should not be considered a common feature, but rather a common problem for both objects under consideration which needs to be addressed.

The proposed author's approach will completely eliminate the above mentioned contradictions, while retaining only indirect signs of similarity. In other words, the position of "digital currency" in the system of objects of civil rights will be determined, an indication of the informational nature of this object will be preserved, while amending the erroneous definition of "digital currency" through the category of "electronic data".

It is worth noting that by their nature, these objects can indeed have a common regulatory mechanism, but only in case if the distributed ledger technology used for the functioning of digital currency is used to exchange any information, for example, during bank transfers. Therefore, this common feature will remain in the application of the proposed author's approach.

A particular interest in the ratio framework of the two above mentioned categories is such a type of information as insider information. Similar to the corresponding situation in the case of digital currency, the same problems are found in the field of legal regulation of relations regarding insider information: the uncertainty of the civil law regime, the insufficiency of special legal means of a civil law nature, the low effectiveness of legal incentives for bona fide participants in relations on the one hand, and the weak effectiveness of legal restrictions for unscrupulous participants in the relevant relations. The above mentioned problems were identified in A.F. Akhmadullina's dissertation research "Civil Law Treatment of Insider Information" as independent aspects in the framework and, with a certain limitations, can be applied in multiple areas, including the current state of legal regulation of relations regarding digital currency (Akhmadullina 2019: 115).

THE RATIO OF "DIGITAL CURRENCY" AND "MONEY SURROGATE"

This is seen as the most difficult task of all listed above, since the ratio and delimitation can be quite problematic due to the uncertainty of the content of the category "money surrogate". The legal category "money surrogate" is used by the legislator in Federal Law No. 86-FZ of June 10, 2002 "On the Central Bank of the Russian Federation", indicating that the issuance of money substitutes is prohibited on the territory of the Russian Federation, as well as the introduction of monetary units other than the Russian ruble. Indirectly, the legislation similar in its expansion current to the category of "money surrogate" is used in the Constitution of the Russian Federation in part 1 of Article 75 indicating that "the introduction and issue of other money in the Russian Federation is not allowed". Even though the scientific opinion is expressed that such ban existence "does not mean that the use of any means of payment other than the ruble is absolutely excluded on the territory of the Russian Federation", the need to demarcate the two categories under consideration seems absolutely necessary in view of the occurrence of possible collisions (Kucherov 2018: 4).

Researchers in this field agree that the legal category of "money surrogate" from a normative point of view seems uncertain, while such a solution to this issue is not fundamentally impracticable. In its meaning, a surrogate (from Latin surrogatus - "put instead of another") is an object that, according to some of its properties, can be used as a substitute for another (Kazachenok 2019: 13). Given the derivation from another

object as a classifying object, with a clear definition of an exhaustive list of all the features of a genuine object, in relation to which the other will be a surrogate, it is possible to establish the signs of the surrogate itself.

In the case of a money surrogate, the authentic object will be "money". The content of this category is not fully reflected in the domestic legislation, since it is a collective concept for such categories as "cash", "non-cash funds", as well as "electronic money", and only the latter were clearly defined in the law. In existing normative uncertainty in relation to the legal category of "money", many authors come to the conclusion that in this case it is necessary to proceed from the economic functions of money as a means of accumulation, as a means of payment and as a means of determining value. Proceeding from this, O.M. Krylov (2019: 47) proposes to consider the use of this object for the implementation of one or more of the above functions of money as a qualifying feature for the recognition of an object as a "money surrogate".

Considering the function of money as an economic category, let us turn to researchers in this field of economic science. For example, V.I. Klistorin and V.V. Cherkassky (1997: 55) call as a common feature of money substitutes the performance of their function as a means of payment, while separately indicating that money substitutes do not act as a store of value and do not determine the proportions of exchange. As a classic example of a money surrogate, these researchers call bills, the history of circulation of which really knows numerous examples of their use as a substitute for money.

E.V. Predein (2004: 10-11) points out the following distinctive features of money surrogates: absent or very low liquidity, emission outside the control of the central bank, turnover in whole or in part outside the banking system, lack of intrinsic value, non-market nature of turnover, limited existence in time and (or) in space and (or) in the circle of persons liquid money supply, and the purpose of the use of money substitutes by economic entities is tax evasion.

Thus, the "money surrogate" is a complex interdisciplinary economic and legal category with a prevailing economic component in the form of an indication of the similarity to money in some of its functions, properties of turnover and directly their economic content. With regard to the distinctive features that make it possible to distinguish between the concepts of money and money surrogate, we can agree with the I.I. Kucherov's (2012: 4) position that a money surrogate is characterized as a means of payment issued by a private person, accepted and recognized by participants in turnover on a voluntary basis.

Returning to the analysis of the "money surrogate" category from the standpoint of legal science, it should be noted that from the earlier analysis of the historical path of the official legal approach to digital currencies, the digital currency was initially recognized as a money surrogate and any of its circulation has been prohibited within the territory of Russia. The question remains whether it is possible to find legal grounds to continue to adhere to the same approach now.

The current definition of "digital currency", as well as the proposed author's version, anticipates its use as a "means of payment" as a property of this object. In other words, if necessary and within the framework of the current legislation, there are certain legal opportunities for recognizing a "digital currency" as a money surrogate, especially in light of the fact that the remaining features of digital currency in the current definition do not allow to clearly establish the exact range of objects that fall within the scope of this definition.

This issue is especially acute in the case of digital currencies of individuals, which are at the greatest risk of being recognized as money substitutes. Agreeing with the opinion of A.R. Tolkachev and M.B. Zhuzhzhalov (2018: 97) that the ban on money substitutes should not apply to digital currency, we are trying to find reliable legal arguments for this.

It seems reasonable to assume that one more feature should be attributed to the number of qualifying features for the legal category "money surrogate", which will make it possible to clearly distinguish between these two objects. Based on the systematic interpretation of the norms of Part 1 of Article 75 of the Constitution of the Russian Federation and Article 27 of the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)", it follows that the ban on "money surrogates" applies only if they are issued or issued on the territory of Russia.

Considering not only to the semantic meaning of the words used in these legal constructions, but also to the teleological interpretation of these norms, the objectives of these prohibitions are to assert the monopoly of the Central Bank of the Russian Federation in the field of money issue or, in other words, the inadmissibility of any subject of activity to create other monetary units. The purpose of establishing such a state monopoly, in turn, is to protect private and public interests from the unfair activities of such emission centres, since the latter can issue "money surrogates" for various kinds of illegal activities in unlimited quantities.

Thus, in order to classify an object as a "money surrogate", it is proposed to establish the presence of two mandatory features: the use of this object to carry out one or more of the functions of money, as well as the presence of an emission center in Russia for this object.

Taking into account the above listed qualifying features of the "money surrogate", it may be possible to draw the correct ratio of the two legal phenomena under consideration. The result of the correlation, in the case of the current legal definition of "digital currency", will be the same: "digital currency" can still have the signs of "money surrogates". This position is really reflected in judicial practice, which leads to the elimination of the court from protecting the violated right of a bona fide participant in relations regarding digital currency (Case No. 2-776/2017, Zavodoukovskij regional court Tyumen' region).

When applying the author's approach, the "digital currency" can be reliably distinguished from the "money surrogates", since this object does not have an entity that issues on the territory of Russia, since the issue is carried out simultaneously in the entire commodity market, the boundaries of which are absent or can be reduced to the borders of the whole world.

The legal consequence of such a distinction, subject to the application of the author's version of the definition of "digital currency", will be the elimination of even the potential possibility of a conflict between the norms of the legislation on digital currency and the norm of Article 27 of the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)". In addition, the problem of the potential unconstitutionality of the relevant norms of the legislation on digital currency to the direct prohibition set forth in part 1 of Article 75 of the Constitution of the Russian Federation will also be solved.

The only alternative for solving the abovementioned problems can only be the recognition of the "digital currency" as a money surrogate creation and circulation of which is not prohibited on the territory of Russia. This approach can be seen as absurd, since in this case the relevant rules on "money substitutes" would lose their legal content.

THE RATIO OF "DIGITAL CURRENCY" TO "CASH"

At first glance, there is nothing in common between the legal categories of the two objects, which may make it unreasonable to consider the differences. Despite this, it is necessary to notice those specific features of both digital currency and cash money that make them related to each other and necessarily entail the application of the rules on money to legal relations regarding digital currency.

One of the common features for these objects is the absence of an intermediary in making payments. Cash payments are made between the parties to a particular transaction directly, without the need to contact the bank or the operator of the information system, as is the case with non-cash funds or electronic money, respectively. The same situation occurs in the case of digital currency, where transactions do not require the presence of an intermediary, and the transfer takes place directly from one person to another.

Another common feature closely related to the previous one, is the inability to cancel or prohibit payment when performing a transaction by both objects in question, as well as to apply any other methods of preliminary or current control. This feature is the basis for all sorts of prohibitive and restrictive measures in relation to the circulation of cash. For the same reason, the circulation of digital currency entails numerous legal means of a prohibitive nature to an even greater extent.

In addition, a common feature of the above two objects is the difficulty of applying coercive measures in relation to the owner of such objects. Within the framework of enforcement proceedings, bankruptcy, as well as criminal prosecution, there are numerous difficulties for withdrawing cash from a person for practical reasons: money is physically difficult to find, easy to hide or transfer to someone. However, if it is fundamentally possible to forcibly withdraw cash money, then it is physically impossible to withdraw a specific amount of digital currency from a person without his consent or imprudence.

The consequence of the presence of the feature described above and at the same time an independent feature is the difficulty of using the design of a vindication claim to restore the violated right both in the case of cash and in the case of digital currency. This feature is a consequence of the inability to fulfil the requirements of the vindication claim when it is satisfied. However, unenforceability in itself is not an obstacle to the existence of any norm in our legal system, as exemplified by the various powers of a factual nature that are granted to the party affected by the violation of certain requirements. The latter include numerous cases of impossibility to actually execute court decisions obliging the defendant to perform certain actions.

There will be no proper arguments in this case and a reference to the fact that it is impossible to vindicate these objects as things determined by a generic characteristic. As noted by E.A. Sukhanov (2017: 260), "the object of vindication in all cases, without exception, is an individually defined thing preserved in nature". Cash can respond to its characteristics of an individually defined thing, but only if there is evidence that allows you to accurately identify each of the bills (Guseva 2021: 80). At the same time, there is almost no practical possibility of identification in relation to coins.

Identification of digital currency as an object obtained illegally from the victim is also fundamentally possible. However, this possibility is limited by the following condition: the transfer must be carried out to an empty "crypto wallet", on which there will be no digital currency of this name in the period of time starting from the moment of transfer and ending with the moment of vindication. The presence of the above conditions necessarily follows from the fact that when mixing (commixtio) digital currencies in one "crypto wallet", the previous object is destroyed and, therefore, a new one is created (Sazhenov 2018: 111).

In addition, the norm of paragraph 3 of Article 302 of the Civil Code of the Russian Federation directly prohibits the reclamation of cash and bearer securities from someone else's illegal possession from a bona fide purchaser.

In other words, despite the fact that both objects under consideration are among the things determined by the generic characteristics, the possibility of reclaiming from someone else's illegal possession is fundamentally permissible. At the same time, there are significant problems in the way of the implementation of vindication, since in both cases there is a need for identification and the risk of actual unenforceability of this requirement. Despite the fact that the conditions for proper vindication in relation to these objects are significantly different, this feature can still be recognized as common to the objects under consideration.

Thus, legally, the digital currency of all the previously considered objects is the closest in its legal features to cash, despite the seeming absurdity of this statement. This aligns with what the creator of the first digital currency, Bitcoin, Satoshi Nakamoto, noted in his article back in 2008 (CoinSpot 2013).

The legal means applied to cash are most applicable to digital currency. Based on this purely pragmatic and functional approach, we proposed the author's version of the legal fiction, according to which the digital currency was equated, and not related to money.

CONCLUSION

To summarise, it can be stated that the legal structure of the "digital currency" presented in the Law on DFAs does not allow for a clear distinction with any of the related legal categories, prevents the determination of the place of "digital currency" in the system of objects of civil rights, as well as the application of the norms of any similar legal institution in a subsidiary manner. This gives rise to the need to establish a separate comprehensive regulation of the relevant relations related to the circulation of digital currency, without any reliance on existing experience.

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