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Abstract:

Cryptocurrencies have been a major topic of debate for many lawyers. So far, in Poland, the majority of private law experts take the view that the possession of cryptocurrencies may only be considered a positive legal situation (an interest protected by law) and may not be associated with any right. This paper actually proves the opposite point of view. In the author’s opinion, cryptocurrency units resemble, in all aspects that are important for the construction of ownership, things considered to be physical objects. First of all, just like things, cryptocurrency units are the object of rivalry as regards their consumption (rivalrousness), and they can also be taken away from their possessor (excludability). That is why Polish legislator has decided to classify things as the objects of property. Today, however, it turns out that certain digital goods also meet such criteria. Therefore, it is justified to apply the provisions on ownership rights to cryptocurrency units by way of an analogy. The article broadly justifies the permissibility of such an analogy, as well as its theoretical structure. The arguments that could be raised against it have also been examined. As it appeared, neither the *numerus clausus* principle (however understood), nor the wording of Article 45 of the Polish Civil Code, create an obstacle for the application of the provisions on ownership to cryptocurrencies by way of an analogy. This has been proven by a comprehensive historical and comparative legal analysis. As a consequence, it should be acknowledged that cryptocurrency units are to be considered objects of property. This right is protected by *rei vindicatio* and *actio negatoria*, but protection in tort and the protection against unjust enrichment are to play a key role in this respect. Digital currencies can be considered a sign that the concept of ownership is evolving and that it will become more and more detached from material objects.