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ETHICAL ASPECTS OF DIGITAL ESTATE MANAGEMENT: CONFIDENTIALITY, RESPECT FOR WILL, AND NORMS OF INHERITANCE LAW

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Abstract. This article is dedicated to a comprehensive analysis of key ethical issues arising in the management of digital estates. Digital estate comprises a variety of digital assets belonging to the deceased, including social media accounts, email, digital currencies, and other virtual items. The research identifies several important questions related to defining rights to digital assets and the process of transferring them to heirs. The authors note that current legislation in many countries does not fully account for the specificity of digital assets, leading to legal uncertainty and potential conflicts of interest in inheritance. The key ethical issues addressed in the article include: balancing the deceased's data confidentiality with the heirs' right to access the digital estate; respecting the deceased's will regarding the disposition of their digital assets; and aligning with the norms of existing inheritance law.

Keywords: Digital estate, ethical aspects, confidentiality, deceased's will, inheritance law, legal regulation, digital assets, digital rights.

Introduction. In the modern era of digital technologies, issues concerning the management of digital estates are becoming increasingly relevant. Digital estate comprises a collection of digital assets such as social media accounts, email, data storage, and other virtual assets that may arise during inheritance. This raises several important questions: how to define the digital nature of these assets, whether heirs have legal rights to these assets, and what legal mechanisms regulate the inheritance of digital assets.

There is varying practice among online service providers regarding the inheritance of digital assets, leading to uncertainty in this area. Some judicial precedents, such as the decision of the Supreme Court of Germany, recognize the rights of heirs to access the digital data of the deceased. However, such decisions raise concerns about potential violations of the confidentiality and privacy of the deceased.

Important ethical issues related to the management of digital estates include balancing the confidentiality of the deceased's data with the heirs' right to access the digital estate, respecting the deceased's will regarding the disposition of their digital assets, and complying with the norms of existing inheritance law.

In this article, we will analyze the ethical problems of managing digital estates, discuss the importance of striking a balance between protecting the privacy of the deceased and the legitimate demands of heirs for information, identify the necessity of respecting the deceased's will regarding digital inheritance, and discuss compliance with inheritance law norms in the context of digital estates.

Methodology.

To investigate the ethical aspects of managing digital estates, a comprehensive and multifaceted approach was employed, consisting of the following steps:

Extensive literature review was conducted, encompassing analysis of current publications on digital estate, data confidentiality, respect for the deceased's will, and inheritance law norms. Both international guiding principles and national legislative norms regulating digital inheritance were examined.

Analysis of key issues related to the inheritance of digital assets was performed, including the feasibility of transferring various types of digital assets to heirs, as well as assessment of jurisprudential practices and diversity of approaches in the transfer and receipt of digital objects by heirs.

Examination of existing legal and regulatory frameworks at international and national levels in the context of digital inheritance was carried out. This

involved analyzing various provisions of online service user agreements, judicial precedents, and potential conflicts of interest in this area.

The research allowed for the identification of the complexity of ethical issues arising in the management of digital estates, including the balance between the deceased's data confidentiality and the heirs' right to access the digital estate, as well as issues regarding respect for the deceased's will regarding the disposition of their digital assets. However, it is important to note the necessity for further study and development of unified regulatory norms to ensure effective and ethical management of digital estates at both international and national levels.

The ethical aspects of managing digital estates represent a complex issue that requires attention and the development of clear norms and rules to facilitate fair and ethical inheritance of digital objects.

Proposed measures for regulating the inheritance of digital objects entail the development of international standards aimed at clear determination of rights and obligations associated with digital inheritance.

RESULTS

● **Digital Inheritance and Its Definition**

In the era of digital technologies, the question of the fate of digital assets and data after the owner's death is becoming increasingly relevant. Digital inheritance is a collection of digital objects belonging to the deceased, such as social media accounts, email, data repositories, digital currencies, domains, and other virtual assets (Mazzone, J. (2012), Tsalyk, S.R. & Shulinyan, M.S. (2020)). This also includes digital copies of personal documents, photographs, creative works, and other electronic content.

● **Rights to Digital Objects and the Practice of Inheriting Them**

When including digital objects in the inheritance estate, a number of questions arise: can all types of digital assets be transferred to heirs? Does the deceased have legal rights to these objects? How to properly formalize the procedure for transferring and receiving these objects to heirs? (Tsalyk, S.R. & Shulinyan, M.S. (2020)). First, it is necessary to determine the digital nature of

specific objects and conduct a legal analysis as to whether they fall under the regulation of current legislation.

Today, there is no uniform practice in this area around the world. For example, in 2018, the German Supreme Court recognized social media accounts as similar to letters and personal diaries and allowed them to be inherited (Bundesgerichtshof (2018)).

Online service providers differ in their attitude towards inheriting digital assets. Some provide heirs with access upon presentation of a death certificate and/or documents proving the right to inheritance, while others do not. For instance, Valve Corporation, the developer of the Steam online digital game and software distribution service, prohibits transferring accounts to other individuals in accordance with its user agreement (Valve Corporation 2024).

Thus, the issues of determining rights to digital objects and the procedure for inheriting them require further study and the development of uniform regulatory norms.

- **Emerging Ethical Issues**

Managing digital inheritance raises a number of ethical issues related to the confidentiality of the deceased's data, respect for their will regarding the disposal of digital assets, and the norms of current inheritance law.

- **Confidentiality vs. Access for Heirs**

One of the key ethical dilemmas is the balance between the deceased's right to privacy and the heirs' right to access their digital inheritance. On the one hand, digital data may contain personal information, correspondence, and other confidential content that the deceased did not wish to disclose (Harbinja, E. (2017)). On the other hand, heirs may have legal grounds to access the digital inheritance in order to deal with financial matters, complete unfinished business, or simply preserve the digital memory of the deceased.

As E. Harbinja notes, current legislation in many countries does not yet provide clear regulations for digital inheritance, leading to legal uncertainty and potential conflicts of interest. At the same time, some court precedents indicate recognition of the heirs' right to access the deceased's digital data (Harbinja, E. (2017)). For example, in 2018, the German Supreme Court ruled that social media

accounts are equated to personal correspondence and diaries, and heirs have the right to access them [3]. However, this decision raised concerns about possible violations of the deceased's confidentiality and privacy.

- **Respect for the Will of the Deceased and Inheritance Law Norms**

Another important ethical issue is respecting the will of the deceased regarding the disposal of their digital inheritance. Existing inheritance law norms often do not take into account the specifics of digital assets, which can lead to a mismatch between the wishes of the deceased and the actual distribution of the digital inheritance (Mazzone, J. (2012), Tsalyk, S.R. & Shulinyan, M.S. (2020)).

For example, the deceased may have wished for their social media accounts to be deleted after death to ensure confidentiality. However, the provisions of user agreements for various online services may contain restrictions on transferring accounts to third parties, including heirs (Harbinja, E. (2017)). In such a case, there is an ethical conflict between respecting the will of the deceased and the technical conditions of the service.

Furthermore, some digital assets, such as non-fungible tokens (NFTs) or cryptocurrencies, have a unique nature, which makes it difficult to transfer them by inheritance within the framework of existing legislation (Tasalov, F.A. (2022)). It is necessary to take into account the specifics of different types of digital inheritance when resolving such situations.

Another aspect is the duration of heirs' access to the digital inheritance. Some companies, such as Google, limit access for three years from the date of approval of the first request, after which the data is completely deleted (Google, 2024). This may go against the principles of inheritance law regarding the perpetual transfer of inherited property.

Thus, there is a need to improve inheritance law norms, taking into account the specifics of digital inheritance and respecting the will of the deceased regarding the disposal of their digital assets.

Discussion. An analysis of the results related to the ethical aspects of managing digital inheritance reveals a number of important issues that require careful consideration.

First, ensuring the confidentiality of the deceased's data is a key ethical challenge. On the one hand, digital data may contain personal, confidential information that a person would not want to disclose to outsiders even after death. This raises the ethical task of preserving the right to privacy of the deceased. On the other hand, heirs may have legitimate grounds to access the digital inheritance in order to resolve financial matters, complete unfinished business, or preserve the memory of the deceased. Thus, it is necessary to find a balance between the right to confidentiality and the heirs' right to access the digital inheritance (Smith, J., & Patel, R. (2022)).

Second, an important ethical principle is respecting the will and autonomy of the deceased. Digital inheritance may contain information about a person's personal preferences, intentions, and wishes regarding the disposal of their assets after death. The ethical obligation is to execute these expressions of will as accurately as possible, preserving the digital inheritance in accordance with the deceased's last will. This requires a detailed study of all available digital data and documents to establish the true will of the deceased.

Third, compliance with inheritance law norms is an important aspect of ethical digital inheritance management. Existing legislation in many countries does not yet fully take into account the specifics of digital assets, creating legal uncertainty and potential conflicts of interest (Bundesgerichtshof (2018)). The ethical task is to develop clear legal mechanisms to harmoniously integrate digital inheritance into existing inheritance law norms, ensuring the legality and fairness of the transfer of digital objects.

Thus, a comprehensive analysis of the ethical aspects of managing digital inheritance shows the need to find compromise solutions that take into account data confidentiality, respect for the will of the deceased, and compliance with legal norms. This requires an interdisciplinary approach involving experts in law, ethics, and information technology to develop balanced and ethical practices for managing digital inheritance.

Conclusion. Ethical balance between data confidentiality and heir access: This highlights the importance of finding harmony between protecting the deceased's privacy and the legitimate demands of heirs for information. Based on

the context of privacy and inheritance rights, the development of balanced solutions seems extremely necessary.

Respect for the will of the deceased regarding digital inheritance: It points to the importance of taking into account the wishes of the testator when transferring digital assets to heirs. The norms of inheritance law should be refined to ensure compliance with the actual desires of the deceased.

Improving the legal regulation of digital inheritance: It emphasizes the need to improve the clarity and efficiency of transferring digital objects within legal mechanisms. Taking into account the diversity of digital assets and ensuring their legal transfer become key aspects of management.

A comprehensive approach to digital inheritance management: Summarizing all aspects, it underscores the importance of developing ethical principles, complying with laws, and respecting the will of the deceased in order to build a reliable management system. Active collaboration of specialists in various fields is highlighted as critically important.

Overall, the analysis presented indicates the need for a comprehensive approach to managing digital inheritance that takes into account ethical, legal, and technical aspects. Further research and the development of coordinated solutions are key to effectively and responsibly regulating this area.

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