



Remarks on the Impact of Consolidated Legal Regulations Concerning Markets in Crypto-Assets in the European Union on Administrative Enforcement Proceedings in Poland

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Abstract. Currently, almost one in five adult Poles invests in cryptocurrencies. Given the already relatively large and still growing number of investors in this group, it can be expected that some of them will also be liable under the provisions on administrative enforcement proceedings. In such cases, the entity conducting the proceedings will seek to apply an enforcement measure to compel the obliged person to fulfil the administrative legal obligation this person has failed to perform. The purpose of administrative enforcement proceedings is to enforce an obligation that has not been voluntarily fulfilled. The article contains an analysis of selected issues relating to the administrative enforcement targeted at virtual currencies and the impact of harmonised legal regulation of crypto-asset markets in the European Union on administrative enforcement proceedings in Poland. This analysis has been conducted to answer the research question concerning the impact on administrative enforcement proceedings in Poland of changes to selected provisions regulating them, resulting from the adaptation of Polish regulations to the legal regulation of crypto-asset markets in the European Union. The study uses a dogmatic-legal method based on an analysis of legal provisions, taking into account the literature on the subject. The article demonstrates that the analysed provisions, which are to be added to the regulation on administrative enforcement proceedings, will contribute to expanding the list of exemptions from administrative enforcement.

Keywords: administrative enforcement proceedings, cryptocurrency, crypto-assets.

JEL Classification: K23.

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1. INTRODUCTION

Digitalisation has revolutionised the monetary and payment system (Piotrowska, 2018, p. 79 and next). A visible manifestation of these changes is the emergence of virtual currencies and cryptocurrencies in the digital space (see: Gradzi, 2021, p. 31-58)¹. These currencies have also become a means of investing capital. Interest in this type of investment is relatively high among Poles and is expected to grow even further. It is growing gradually, as the adoption of new technologies and assets takes time. According to a report by UCE Research & Ari10 (2025), a significant number of Poles, 18.4%, invest in cryptocurrencies². These are mainly people aged 25 to 34, working full-time (with a monthly net income of PLN 7,000-8,999), most often residents of the largest cities (Supernak, 2025).

The term cryptocurrency has been used in the study. There is no definition of cryptocurrency in Polish law. However, there is a legal definition of virtual currency, which is included in the Polish Law of 1 March 2018 on Combating Money Laundering and the Financing of Terrorism³. The regulation contained in this Law is related to the desire to control the functioning of the market for these currencies. According to Article 2(2)(26) of this Law, a virtual currency is a digital representation of value that is not: a) a legal tender issued by the National Bank of Poland, foreign central banks or other public administration bodies, b) an international unit of account established by an international organisation and accepted by individual countries belonging to or cooperating with that organisation, c) electronic money within the meaning of the Polish Law of 19 August 2011 on Payment Services⁴, d) a financial instrument within the meaning of the Polish Law of 29 July 2005 on Trading In Financial Instruments⁵, e) a bill of exchange or cheque – and is convertible in economic transactions into legal tender and accepted as a means of exchange, and may also be stored or transferred electronically or traded electronically. It is important to note the correct interpretation of the term “digital representation of value” contained in this definition. As rightly emphasised in the doctrine, this term does not refer to the price of virtual currencies itself, “but to the mechanism (algorithm) of the functioning of these currencies, which only indirectly affects the price of tokens. Nevertheless, in practical terms, virtual currencies have real market value, which is linked to the other defining characteristics of these currencies: participation in economic transactions and acceptability” (Opitek, 2022). The definition of virtual currency contained in the LCMLTF also applies to cryptocurrencies. It should be noted that virtual currency is a broader concept, so not every virtual currency will be a cryptocurrency. The latter is a special type of virtual currency that uses blockchain technology and related cryptographic methods to record transactions.

2. ENFORCEMENT FROM VIRTUAL CURRENCY⁶

This study concerns issues related to administrative enforcement proceedings, the essence of which, as indicated in the doctrine, lies “in the undertaking by public administration bodies designated by law of all steps provided for by law necessary steps to bring the actual state of affairs into line with the state corresponding to an individual or general legal norm, from which obligations subject to compulsory enforcement by administrative rather than judicial means arise for a named addressee” (see: Kijowski, 2015, p. 34; Smoktunowicz, 2000, p. 207). It should be noted that if the obligation has not been fulfilled by its addressee due to a lack of sufficient care, then sometimes

¹ Virtual currencies, together with electronic currency, belong to the so-called digital currencies, i.e. payment methods that exist exclusively in electronic form.

² The report entitled "How do Poles invest in cryptocurrencies? 2025 edition" was prepared on the basis of a special public opinion survey using the CAWI (Computer Assisted Web Interview) method by UCE Research & Ari10 (2025) on a sample of 1,032 adult Poles aged 18-80; 2025, <https://uce-pl.com/news/co-piatty-dorosly-polak-inwestuje-w-kryptowaluty>

³ Consolidated text: Journal of Laws of 2025, item 664; hereinafter: LCMLTF.

⁴ Consolidated text: Journal of Laws of 2025, item 611, as amended.

⁵ Consolidated text: Journal of Laws of 2024, item 722, as amended.

⁶ The term "enforcement against virtual currency" has been adopted in order to simplify the message of the study, covering both the issue of enforcement against virtual currency and enforcement against the right to virtual currency.

it may be sufficient to simply remind them of their duty. On the other hand, if the reason for the failure to fulfil the obligation is ill will, the consequence of such behaviour on the part of the individual is the use of state coercion against them. It is applied by professionally trained entities, operating in a detailed and organised manner to ensure, in addition to effectiveness, respect for the rights of the person against whom coercion is used. One form of state coercion is administrative coercion. Those in power have the option of using administrative coercion in the form of enforcement measures to ensure the desired behaviour of individuals in the event of their failure to voluntarily fulfil their obligations. These measures are specified in the Polish Law on Enforcement Proceedings in Administration⁷. The legislator applied a classification based on the criterion of the subject of enforcement. It introduced measures for administrative enforcement of monetary obligations and measures for administrative enforcement of non-monetary obligations. Article 1a point 12 letter (a) of the LEPA contains a list of measures for administrative enforcement of monetary obligations (enforcement: against cash; against wages; against benefits from pension provision and social insurance, as well as social pensions; against bank accounts; against other monetary receivables; against rights in financial instruments within the meaning of the provisions on trading in financial instruments, recorded in a securities account or other account, and against receivables from a cash account used to service such accounts; against securities not recorded in a securities account; against promissory notes; against proprietary copyrights and related rights as well as industrial property rights; against shares in a limited liability company; against other property rights; against movable property; against real estate). Article 1a point 12 letter (b) contains a list of measures for administrative enforcement of non-monetary obligations (a coercive fine, substitute performance, seizure of movable property, seizure of real estate, eviction from premises and other spaces, direct coercion).

In the case of enforcing an administrative legal obligation of a financial nature, it is essential to be able to conduct administrative enforcement against the assets of the entity that has failed to voluntarily comply (the obligated party). The increase in the number of investors in virtual currencies in Poland prompts an analysis of the legal provisions regulating the administrative enforcement from these currencies. The legislator has commented on the legal nature of virtual currencies, including cryptocurrencies and tokens (more broadly: crypto-assets) that meet the definition of virtual currencies under the LCMLTF (see: Srokosz, 2023). In Article 17(1f) of the Polish Law on Personal Income Tax⁸, it was assumed that the sale of virtual currency for consideration means the exchange of virtual currency for legal tender, goods, services or property rights other than virtual currency, or the settlement of other liabilities with virtual currency. In turn, in Article 7b(1)(6)(f) of the Polish Law on Corporate Income Tax⁹, it was stated that income from capital gains is considered to be income from the exchange of virtual currency for a means of payment, goods, services or property rights other than virtual currency, or from the settlement of other liabilities with virtual currency. It follows from these provisions that the legislator considers virtual currencies to be property rights.

In the event of enforcement of monetary obligations, the enforcement authority resorts to the enforcement measures specified in Article 1a(12)(a) of the LEPA. This Law does not contain provisions regulating in detail the administrative enforcement from virtual currencies. It therefore seems reasonable that the appropriate means of enforcement would be enforcement against other property rights. The provision on the basis of which this enforcement should be carried out is Article 96l of the LEPA. This provision allows for administrative enforcement of property rights other than those specified in Articles 89 to 96k of the LEPA. The seizure of other property rights takes place in two ways, i.e. either by collecting a document, if the condition for exercising the property right is possession of the document, or by notifying the obliged person, if the seized property right is of such a nature that

⁷ The Polish of 17 June 1966 on Enforcement Proceedings in Administration (consolidated text: Journal of Laws of 2025, item 132, as amended); hereinafter: LEPA.

⁸ The Polish Law of 26 July 1991 on Personal Income Tax (consolidated text: Journal of Laws of 2025, item 163, as amended).

⁹ The Polish Law of 15 February 1992 on Corporate Income Tax, (consolidated text: Journal of Laws of 2025, item 278, as amended).

the designated entity is liable to the obliged person. As follows from Article 96m of the LEPA, the provisions of Section II, Chapter 5, Division 1 of this Law shall apply accordingly to the enforcement of other property rights, except that in the case of sale, the provisions on the sale of movable property shall apply.

3. EXPERIENCE OF TAX OFFICES IN THE SALE OF CRYPTOCURRENCIES

When considering administrative enforcement related to non-compliance with administrative legal obligations, it is worth noting the significant increase in the number of criminal proceedings in which cryptocurrencies play an important role. Prosecutors have begun cooperating with the locally competent heads of tax offices and, on the basis of the provisions on administrative enforcement proceedings and the Executive Penal Code¹⁰, are requesting the implementation of a decision to sell cryptocurrencies in the course of an ongoing investigation as property subject to forfeiture to the State Treasury (Opitek, 2022). So far, Polish tax offices have sold cryptocurrencies only a few times (Stępniewski, 2025). Such proceedings are still rare, but they confirm the readiness of the tax administration and law enforcement authorities to take action in the digital economy, and it can be assumed that such actions will be taken more and more often over time.

4. LEGAL REGULATION OF THE CRYPTOASSET MARKET AND AMENDMENT TO THE LEPA

The purpose of the Polish Law on the Crypto-Assets Market¹¹ (which was submitted to the President of the Republic of Poland on November 12, 2025, and is currently awaiting his signature) is to regulate the Polish digital assets sector and to implement Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets and amendments to Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937¹². This Regulation established a harmonised legal framework for crypto-asset markets for all Member States, introducing detailed provisions on crypto-assets, related services and activities that were not covered by EU legislative acts on financial services. Furthermore, the Law, by amending the LCMLTF, is intended to ensure the application of the provisions of Regulation (EU) 2023/1113 of the European Parliament and of the Council on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849¹³. It should be noted that the explanatory memorandum states that whenever it refers to a crypto-asset, it is understood as a crypto-asset within the meaning of Article 3(1)(5) of Regulation 2023/1114. A crypto-asset therefore signifies a digital representation of a value or a right which is able to be transferred and stored electronically, using distributed ledger technology or similar technology. Regulation 2023/1114 lists several types of crypto-assets.

The first of these is an asset-referenced token (ART), which, according to Article 3(1)(6) of the Regulation, means a type of crypto-asset that is not an electronic money token and that purports to maintain a stable value by referencing another value or right or a combination thereof, including one or more official currencies. The second is an electronic money token or e-money token (EMT) – according to Article 3(1)(7) of Regulation 2023/1114, an electronic money token means a type of crypto-asset that purports to maintain a stable value by referencing the

¹⁰ The Polish Law of 6 June 1997 on the Executive Penal Code, (consolidated text: Journal of Laws of 2025, item 911, as amended).

¹¹ The Polish Law of 7 November 2025 on the Crypto-Asset Market, https://orka.sejm.gov.pl/proc10.nsf/ustawy/1424_u.htm; hereinafter: LCM.

¹² Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937, OJ EU L 150 of 09.06.2023, p. 40, as amended; hereinafter: Regulation 2023/1114.

¹³ Regulation (EU) 2023/1113 of the European Parliament and of the Council on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849 (OJ EU L 150 of 09.06.2023, p. 1); hereinafter: Regulation 2023/1113 .

value of one official currency. Utility tokens (UT) should also be mentioned. According to Article 3(1)(9) of the Regulation, a utility token refers to a type of crypto-asset that is only intended to provide access to a good or a service supplied by its issuer. There are also crypto-assets that meet the requirements of the definition in Article 3(1)(5) of the Regulation but are not ARTs, EMTs or UTs. An example of such crypto-assets are cryptocurrencies, which do not have an issuer that is a legal or natural person and which are created on a public blockchain, such as bitcoin (see: Srokosz, 2023). Point 18 of the preamble to Regulation 2023/1114 states that it divides crypto-assets into three types, which should be distinguished and subject to different requirements depending on the risks associated with them. This classification is based on whether crypto-assets are intended to maintain a stable value through their link to other assets. The first type of crypto-assets mentioned in the preamble are “e-money tokens” (EMT), and the second are “asset-referenced tokens” (ART). The third type of crypto-assets, referred to in point 18, are crypto-assets that are neither asset-backed tokens nor e-money tokens and cover a wide range of crypto-assets, including utility tokens.

When analyzing the impact of harmonized legal regulations concerning crypto-asset markets in the European Union on administrative enforcement proceedings in Poland, it should be noted that the LCM entails an amendment to the LEPA. Pursuant to Article 129 of the LCM, points 20–23 were added to § 1 of Article 8 LEPA. To explain the purpose of this amendment, it should be recalled that, alongside enabling the enforcement of administrative legal obligations, the provisions of the LEPA are intended to ensure the protection of the individual against the use of coercion. Principles of law play a very important role from the perspective of this protection. In administrative enforcement proceedings, the general principles of the entire legal system apply, as do the general principles of administrative procedure set out in the Code of Administrative Procedure¹⁴ and the general principles of administrative enforcement proceedings arising from the LEPA. Due to the limited scope of this study, the considerations below focus on the impact of the general principles of administrative enforcement proceedings on the situation of the individual, and in particular on the form and significance of the principle of respect for the minimum subsistence level (expressed in Articles 8–13 LEPA), as indicated in the literature.

It should be noted that the principle of respect for the minimum subsistence level consists in applying certain restrictions in administrative enforcement aimed at protecting the individual from being deprived of property and property rights specified by the legislator. These are necessary to ensure the subsistence of the obliged person and the family members dependent on this same person. The LEPA lists items, amounts of money, as well as receivables and property rights that, by law, are exempt from enforcement of certain assets under Article 13 LEPA. The legislator treats the principle of respect for the minimum subsistence level broadly. The statutory exemptions serve not only to protect the obliged person from losing certain property and property rights that are essential for them and their dependents to ensure basic living conditions, but also aim to prevent depriving them of the ability to work for remuneration, study, perform service, or practice a profession. In addition to humanitarian considerations, economic reasons are also significant here, arguing against a situation in which the obliged person could lose the ability to earn a living and be forced to rely on social assistance benefits (Żukowski & Sawula, 2004, p. 210).

The statutory exemptions from enforcement cover three categories of assets: items, amounts of money, and receivables and property rights. Under Article 8 § 1 LEPA, the first group includes, among others, household items, bedding, underwear and clothing necessary for the obliged person and family members dependent on this same person, as well as clothing necessary for performing service or practicing a profession. The amendment to Article 8 § 1 LEPA by adding points 20–23, made pursuant to Article 129 of the LCM, introduces new exemptions from administrative enforcement.

¹⁴ The Polish Law of 14 June 1960 on the Code of Administrative Procedure (consolidated text: Journal of Laws of 2024, item 572, as amended).

According to point 20 added to Article 8 § 1 LEPA, funds belonging to a client (that is, within the meaning of Article 3(1)(39) of Regulation 2023/1114, any natural or legal person to whom a crypto-asset service provider provides crypto-asset services) entrusted to a obliged person who is a crypto-asset service provider in connection with the provision of crypto-asset services by that obliged person within the meaning of Article 3(1)(16) of that Regulation are exempt from administrative enforcement. This refers to a service provider within the meaning of Article 3(1)(15) of Regulation 2023/1114, which is a legal person or other undertaking whose occupation or business is the provision of one or more crypto-asset services to clients on a professional basis, and that is authorized to provide crypto-asset services in accordance with Article 59 of that Regulation (which concerns authorization). As stated in Article 3(1)(16) of Regulation 2023/1114, 'crypto-asset service' means any of the following services and activities relating to any crypto-asset:

- custody and administration of crypto-assets on behalf of clients;
- operation of a trading platform for crypto-assets;
- exchange of crypto-assets for funds;
- exchange of crypto-assets for other crypto-assets;
- execution of orders for crypto-assets on behalf of clients;
- placement of crypto-assets;
- receipt and transmission of orders for crypto-assets on behalf of clients;
- providing advice on crypto-assets;
- providing portfolio management on crypto-assets;
- providing transfer services for crypto-assets on behalf of clients.

According to point 21 added to Article 8 § 1 LEPA, funds belonging to a client, entrusted to a obliged person who is a crypto-asset service provider, and stored in the manner referred to in Article 70(3) of Regulation 2023/1114, are also exempt from administrative enforcement. Article 70(3) provides that crypto-asset service providers shall, by the end of the business day following the day on which clients' funds other than e-money tokens were received, place those funds with a credit institution or a central bank. Crypto-asset service providers shall take all necessary steps to ensure that clients' funds other than e-money tokens held with a credit institution or a central bank are held in an account separately identifiable from any accounts used to hold funds belonging to the crypto-asset service providers.

Furthermore, according to point 22 added to Article 8 § 1 LEPA, crypto-assets within the meaning of Article 3(1)(5) of Regulation 2023/1114 (which are a digital representation of a value or of a right that is able to be transferred and stored electronically using distributed ledger technology or similar technology) belonging to a client and held by a obliged person who is a crypto-asset service provider in connection with the provision of crypto-asset services, in a crypto-asset account within the meaning of Article 3(19) of Regulation 2023/1113 maintained by that obliged person, are exempt from administrative enforcement. A crypto-asset account means an account maintained by a crypto-asset service provider for at least one natural or legal person, which can be used to execute transfers of crypto-assets.

Point 23 was also added to Article 8 § 1 LEPA, under which assets constituting the reserve of assets referred to in Article 36(1) of Regulation 2023/1114 are exempt from enforcement. According to this provision, issuers of asset-referenced tokens shall constitute and at all times maintain a reserve of assets.

5. CONCLUSIONS

Cryptocurrencies are phenomena that continue to strengthen their position in the financial world and are becoming a frequently used investment tool. Although investing in cryptocurrencies is quite risky, the cryptocurrency market is developing spectacularly and is gaining increasing importance, including in Poland. This also affects the shape of national legal regulations. The EU legal framework for crypto-asset markets is also relevant

in the area of administrative enforcement proceedings. It can be expected that among the currently large and still growing group of entities involved in cryptocurrency investments, there may also be obliged persons within the meaning of the provisions on administrative enforcement proceedings.

Administrative enforcement proceedings are characterized by the element of administrative coercion, which determines the burdensomeness of actions taken by the administration and directed at the obliged person. It should be emphasized that the administration has the right to resort to coercive measures when necessary to ensure compliance with an obligation; however, it must not violate individual rights through excessive or unjustified application of burdens. The literature emphasizes that the principle of respect for the minimum subsistence level serves to protect the obliged persons and their family members (see: Masternak, 2020, p. 64). In this context, it should be noted that the addition of points 20–23 to Article 8 § 1 LEPA extends the scope of this protection, which is now also afforded to the client within the meaning of Article 3(1)(39) of Regulation 2023/1114, i.e., any natural or legal person to whom the obliged person (being a crypto-asset service provider) provides crypto-asset services.

This concerns the exclusion from enforcement of funds belonging to the client entrusted to the obliged person in connection with the provision of crypto-asset services (within the meaning of Article 3(1)(16) of Regulation 2023/1114) and funds entrusted to the obliged person and stored in the manner referred to in Article 70(3) of the aforementioned Regulation. The addition of point 22 to Article 8 § 1 LEPA results in the exclusion from enforcement of crypto-assets belonging to the client and held in a crypto-asset account (within the meaning of Article 3(19) of Regulation 2023/1113) maintained by the obliged person, which were entrusted to the obliged person in connection with the provision of crypto-asset services. Meanwhile, the introduction of point 23 to Article 8 § 1 LEPA means that assets constituting the reserve of assets referred to in Article 36(1) of Regulation 2023/1114 will not be subject to enforcement. In summary, it should be noted that the proposed amendment to the legal regulation affects the scope of exemptions from administrative enforcement and is of significant importance for the proper conduct of administrative enforcement proceedings in Poland.

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