# CRYPTOCURRENCY, INSOLVENCY AND ECONOMIC CRIME: LEGAL CHALLENGES OF FINANCIAL DIGITALIZATION

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**ABSTRACT**

*The digitalization of financial instruments has produced a visible crack in the classical architecture of patrimonial, fiscal and criminal law. This study analyzes, from a dual perspective — theoretical and insolvency practitioner — the way in which virtual assets complicate the identification and preservation of the creditor's estate, open doors to tax evasion and money laundering, and put pressure on classical investigative tools. The paper proposes, based on comparative analysis and practical experience gained in insolvency proceedings, several lege ferenda solutions intended to cover the current normative vacuum in Romanian legislation.*

**KEYWORDS:** *cryptocurrencies; insolvency; fraudulent bankruptcy; money laundering; contributory capacity; financial law.*

**J.E.L. Classifications: E42, G28, G38, K14, K22, K42.**

## I. INTRODUCTION

I have practiced insolvency law long enough to know that each generation of debtors finds a new tool through which the asset becomes, suddenly and conveniently, harder to find. Twenty years ago, it was about offshore accounts and shell companies registered across borders. Today, the discussion has moved almost entirely to the field of digital assets. It is no exaggeration to say that cryptocurrency trading, financial decentralization and blockchain technology are simultaneously putting pressure on three levels of law that, until recently, operated relatively independently of each other: classical property law, tax law and economic criminal law.

The research problem we propose is essentially one of procedure and probation: how does the insolvency practitioner identify, preserve and execute a trust when part of it can be moved, in a few seconds and without a visible trace, to a digital wallet that no one but the debtor can access? And, correlatively, how does the criminal prosecution system respond when the same instruments become vehicles for money laundering and fraudulent bankruptcy?

Our starting hypothesis is that the answer cannot come from a single branch of law.

Functional solutions lie at the intersection of insolvency law, financial-tax law and criminal law, and the methodology chosen in this study is comparative and analytical-legal, supported by observations drawn from current professional practice.

## II. RISKS ASSOCIATED WITH CRYPTO-ASSETS TRADING AND IMPLICATIONS ON ASSETS STABILITY

### 2.1. Volatility and opacity of cryptocurrencies

Blockchain technology solves a technical problem — the decentralization of the register — but at the same time opens a dilemma of legal qualification that the Romanian legislator has not yet satisfactorily resolved. Are cryptocurrencies securities? Intangible goods subject to the general regime of movable goods? Or does it represent a hybrid category, a kind of sui-generis financial means that does not fit comfortably into any of the existing conceptual boxes? Practice shows that the answer often depends on the court and the complexity of the case, which is obviously not a solution — it's just a postponement.

### 2.2. Prevention and management of financial risk

The opacity and extreme volatility of the virtual asset market require a reassessment of the classic notion of risk in commercial activity. As Adrian Sorin Marian shows in the study dedicated to the risks and opportunities in cryptocurrency trading **Adrian Sorin Marian,2025)**, uncontrolled exposure to digital assets, in the absence of a rigorous financial risk management strategy, is one of the primary triggering factors of the patrimonial imbalance of commercial companies, opening the way to insolvency. The observation is not purely theoretical: I have encountered, in the practice of judicial administrator, situations where a statutory administrator placed part of the company's liquidity in volatile assets, without any kind of hedging or exposure limitation policy, and the collapse of the value of these assets was the last straw that overturned an already fragile financial balance.

I would go even further and say that the risk lies not only in volatility, but in the combination of volatility and lack of transparency. A listed stock loses its value in plain sight; a crypto wallet can lose value—or be emptied—without anyone outside the borrower even knowing it exists.

### 2.3. The Dilemma of Legal Qualification: Cryptocurrency as an Object of Performance

The question "what is a cryptocurrency, in fact, from a legal point of view" is not a gratuitous academic exercise — on its answer depends the validity of countless legal acts concluded every day. Cristian Paziuc, analyzing the validity of legal acts that have as their object cryptocurrency (**Cristian Paziuc,, 2022)**, shows that the virtual currency can be regarded as the object of a contractual provision only if a certain flexibility is accepted compared to the classic categories of civil law, and the commutative or random character of the contract depends, to a large extent, on the concrete way in which the parties understood to configure the risk. From an insolvency perspective, the observation has a direct consequence: if even the legal nature of the asset is not fully clarified, the regime of its enforcement is even less clear—which obviously brings us back to the issue we discuss in the next section.

## III. INSOLVENCY IN THE DIGITAL AGE: IDENTIFICATION, TRACKING AND ENFORCEMENT OF HIDDEN ASSETS

### 3.1. Procedural issues

Law no. 85/2014 was conceived in a world where the debtor's asset usually had a tangible form or, at least, an institutional trace — a bank account, a property, a share registered with the Trade Register.

Private keys and cold wallets do not follow any of these logics.

The insolvency practitioner currently has no direct legal instrument through which to compel the debtor to hand over a private key, and the forced execution of a digital asset remains, to a large extent, theoretical as long as the debtor refuses to cooperate.

As far as I can tell, although cold wallets or non-custodial wallets are almost impossible to execute without a key, in practice, debtors frequently use centralized platforms (Binance, Kraken, Crypto.com, etc.) for conversion into fiat currency (RON/EUR). Pointing out the possibility of issuing garnishment/seizure addresses directly to authorized platforms as CASP/service providers would add practical value.

### 3.2. Detriment to creditors and tax evasion

Voluntary asset reduction by transferring capital to anonymous cryptographic wallets not only affects the interests of unsecured creditors, but directly undermines the foundation of tax law. Analyzing the contributory capacity in contemporary tax systems (**Adrian Sorin Marian, 2021)**, Adrian Sorin Marian emphasizes that the fair settlement of tax burdens depends on the transparency of the income and real assets of the legal subject; therefore, the masking of taxable and creditable assets through undisclosed virtual assets represents a serious distortion of the contributory capacity and, in our opinion, a form of fraud against the public economic order, not just a simple accounting irregularity.

I do not think it is an exaggeration to say that, in the absence of legislative intervention, any discussion about fiscal equity remains, to a large extent, theoretical — because the rule applies only to those who have not yet figured out how to circumvent it.

3.3. Fraudulent bankruptcy and the specificity of digital assets

The connection between the concealment of digital assets and the crime of fraudulent bankruptcy is not accidental, but belongs to the very structure of this crime. Rareș Andrei Furtună, in a recent study dedicated to this fact (**Rareș Andrei Furtună„ 2026)**, explains that fraudulent bankruptcy implies, unlike simple bankruptcy, deliberate conduct on the part of the debtor — the fraudulent concealment, destruction or alienation of assets, coupled with bad faith and the intention to prevent the satisfaction of claims. These elements, originally conceived for paper accounting records and tangible assets, translate almost perfectly to the field of digital assets: hiding a private key is functionally equivalent to hiding an accounting ledger, only it is infinitely more difficult to prove and, above all, infinitely more difficult to physically search.

## IV. ECONOMIC CRIME AND THE INTERSECTION OF SPECULATIVE MARKETS WITH ORGANIZED CRIME

### 4.1. Money laundering techniques and fraudulent bankruptcy

Crypto mixers, privacy coins and the speed of cross-border transfers together form a combination that is difficult to counter with classic criminal prosecution tools. A transfer that, in the traditional banking system, would leave a clear audit trail, can, in the crypto environment, be fragmented, anonymized and redistributed in a matter of minutes.

The mechanism of money laundering through cryptocurrencies does not remain isolated in the virtual sphere, but quickly spills over into the real economy. Extrapolating Adrian Sorin Marian's analysis of the vulnerability of economic markets — the real estate market in particular — to the risks posed by organized crime (**Adrian Marian, 2026)**, we observe a symbiotic phenomenon: the profits obtained from digital economic crimes are injected into tangible assets, distorting market relations and making it more difficult for criminal prosecution bodies to recover the damage. An apartment bought in cash, at a price slightly above market, paid from an account opened three months ago, should, in theory, raise an alarm signal — and yet, how often does this actually happen?

### 4.3. An example from the region: the investigation in Bistrița-Năsăud, Cluj and Maramureș

We do not have to look very far to see examples of these mechanisms working in practice. The Romanian Police reported, during 2026, the implementation of twelve simultaneous house searches in the counties of Bistrița-Năsăud, Cluj and Maramureș (**Press release, 2026**), in a case under the supervision of the Prosecutor's Office attached to the Bistrița-Năsăud Court, targeting computer crimes and money laundering in connection with a cryptocurrency fraud whose damage was estimated at approximately 700,000 dollars.

The case is relevant precisely because it illustrates, on a local scale, exactly the pattern described above: the criminal network was not limited to a single jurisdiction, but spread across three neighboring counties, and the pursuit of the damage required the coordination of several territorial police structures.

For an insolvency practitioner from the Cluj-Maramureș area, such a file is not a press curiosity, but a very concrete signal: hidden digital assets do not usually remain isolated in a single county, and any legislative reform must be thought out from the very beginning with a logic of interjurisdictional cooperation, not just local.

## V. DIGITALIZATION OF INVESTIGATIVE TOOLS AND LEGAL REFORM

### 5.1. Institutional response

Insolvency practitioners, police officers and prosecutors today need a qualification that classic legal training programs do not offer: forensic blockchain. It is not enough to know what insolvency is or what a fraudulent bankruptcy crime is; you also need to know how to read a distributed ledger, how to track a transaction through a mixer and where a chain of anonymized transfers actually ends.

### 5.2. Digitalization, prevention and combating corruption

Fighting digital economic crime cannot be done with analog tools. As Adrian Sorin Marian notes in his paper on the relationship between digitalization and corruption phenomena (**Adrian Sorin Marian, 2026)**, the transition to the digital environment is a double-edged sword: on the one hand, it creates new opportunities for opaque economic crime, and on the other hand, it offers judicial authorities advanced tools for traceability and transparency, provided that there is adequate specialized training. I would add, from experience, that the lack of this training is, at the moment, the main obstacle — legislation can be completed relatively quickly, but training a prosecutor or a forensic blockchain practitioner takes years, not months.

### 5.3. The dimension of individual rights: the investor-consumer, the great forgotten one

The discussion above naturally focuses on creditors, the state and the criminal prosecution bodies, but there is also a fourth party, often forgotten: the individual investor, who is neither an institutional creditor nor a criminal, but simply a person who has placed his savings in an asset that he does not fully understand.

Nicolae Voiculescu and Maria-Beatrice Berna draw attention, in a study dedicated to cryptocurrencies and human rights (**Nicolae Voiculescu, Maria-Beatrice Berna, 2024)**, that the impact of virtual currencies on individuals has, so far, been treated fragmentarily and marginally in relation to the field of human rights, without a systematic and comprehensive analysis.

The observation seems important to me for our discussion as well: any legislative reform focused exclusively on the protection of creditors and the fight against organized crime risks leaving completely uncovered the position of the ordinary investor, who is, many times, the very collateral victim of the practices described in the previous sections.

## VI. AN INSTITUTIONAL PROPOSAL: THE STUDY OF THIS PROBLEM AT "BOGDAN VODĂ" UNIVERSITY IN CLUJ-NAPOCA

Having arrived here, I think it is natural not to stop only at the level of the diagnosis, but also to say what we propose, as a faculty, to do about this problem — because, otherwise, we risk writing another article that notes a problem without contributing, in the least, to its solution.

At the Faculty of Law of the "Bogdan Vodă" University in Cluj-Napoca, we already have teaching staff with institutional experience that we can capitalize on directly in this regard: participation, as an expert, in the European TRIDENT project, together with the Police University of Rhineland-Palatinate, and the coordination of the Erasmus FAST project, dedicated to digital evaluation tools in professional training in the field of public order. Both projects have demonstrated that teachers from our faculty can manage, on a practical level, specialized training with a digital component for law-related professions — police officers, trainers, practitioners.

Concretely, we propose three directions of action, thought not to remain at the stage of declarative intention:

(i) The introduction, within the disciplines of Financial and Fiscal Law and Banking Law, already taught at the faculty, of a module dedicated to the legal qualification of digital assets and their implications on insolvency and economic criminal law, so that students do not encounter this topic only incidentally, through an optional course, but as a natural part of the basic training;

(ii) The organization, in partnership with the Cluj branch of the National Union of Insolvency Practitioners in Romania (UNPIR) and the Economic Crime Investigation Service of the county police, of applied legal clinic-type seminars, in which students and young practitioners work on real cases — anonymized, of course — similar to the one discussed in section 4.3, with an emphasis on the procedure for identifying and preserving digital assets;

(iii) The establishment, starting from the experience already accumulated in the European projects mentioned above, of an interdisciplinary research core — law, forensics, technology — that will function as a starting point for a future postgraduate specialization in blockchain forensics, open to lawyers, insolvency practitioners, police officers and magistrates from the Cluj-Maramureș region alike.

I do not claim that these three directions solve, by themselves, the legislative vacuum described in this article — the law remains, after all, the prerogative of the legislator. But I sincerely believe that the role of a regional law faculty, such as the one at "Bogdan Vodă" University, is precisely to prepare the people who, in a few years, will apply that law — and, if possible, to contribute, through applied research, to its shaping.

## CONCLUSIONS AND PROPOSALS DE LEGE FERENDA

The summary of this study is, in fact, simple: Romanian insolvency law, tax law and economic criminal law currently operate with a clear legislative vacuum regarding digital assets, and this vacuum will not be filled by itself. An interdisciplinary approach is needed, which brings together criminal law, insolvency law and financial-banking law.

We propose, specifically, two directions of legislative intervention:

(i) Supplementing Law no. 85/2014 in the sense of expressly obliging the debtor to hand over to the judicial liquidator or the judicial administrator all private keys and access data to trading platforms (exchanges), under penalty of classifying the act as fraudulent bankruptcy;

We dare to advance the idea, however, derived from experience, that it is possible to propose not only criminal sanctioning the concealment of the private key, but also the application of penalties per day of delay (astreinte) or non-pecuniary coercive measures against the individual debtor/statutory administrator who refuses to hand over the access codes.

(ii) Creating a national registry for the freezing of digital wallets seized in criminal and commercial proceedings, which would allow for a unified and accessible record to all judicial bodies involved.

Without these interventions, we risk that the discussion about fiscal equity and creditor protection, in the digital age, will remain — as I said earlier — a purely theoretical discussion.

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