



This new section of eurofenix will bring you the most relevant news in the field of insolvency tech and digital assets. To contribute an article to a future edition, please send your proposal to: insolvencytech@insol-europe.org or the individual Chairs: **Dávid Oršula** david.orsula@bnt.eu **José Carles** j.carles@carlescuesta.es **Laurent Le Pajolec** lpa@exco.pl

In the digital-tech pipeline for 2021 and beyond

José Carles, Laurent Le Pajolec and David Orsula, co-chairs of the Insolvency Tech & Digital Assets Wing, review their recent activities and introduce their plans for next year

This year we all missed being able to meet personally at INSOL Europe’s Annual Congress in Sorrento. However, we all made it happen, virtually.

Our Insolvency Tech & Digital Assets Wing (IT&DA) worked together with the Turnaround Wing and the Anti-Fraud Forum and held the panel “Lessons learned from the Failures of the Fintech Company: Wirecard Case” on fraud in fintech companies under distress. Wirecard’s cross-border case and the implications of the nature of fintech companies regarding fraud and insolvency were duly addressed. Our co-chair Laurent Le Pajolec was one of the members of the panel. *See full report on page 22.*

Besides, the Insolvency Tech & Digital Assets Wing held its second Annual Meeting at the end of September, welcoming new members to the wing even from Australia. All the members discussed the projects that have been carried on by this working group so far and defined the next projects to be developed in the future.

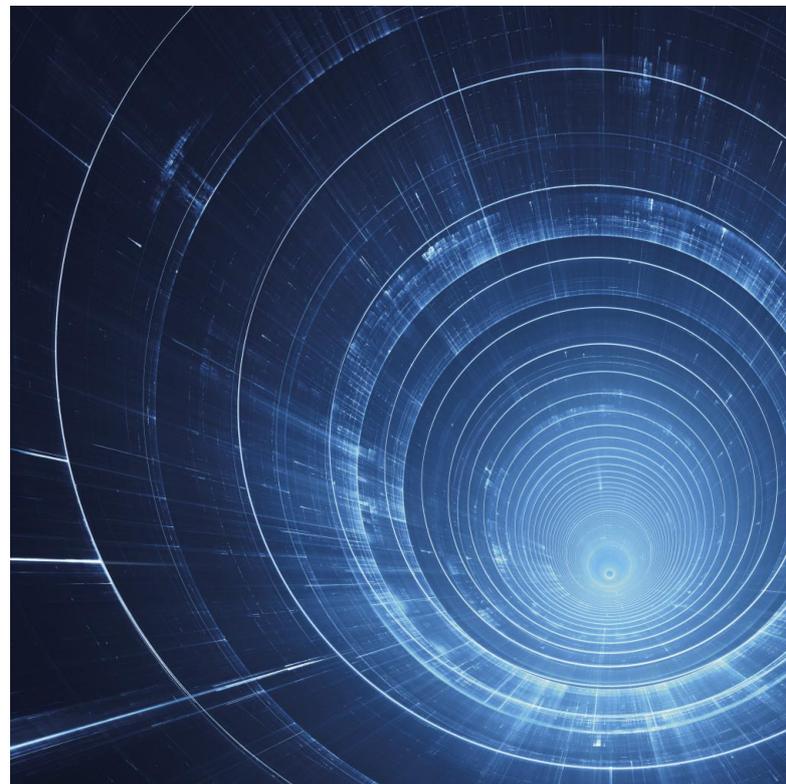
As an on-going project, our

wing has contributed to all of the past issues of Eurofenix with articles related to legal tech and/or digital assets and intends to continue doing so. We are well aware that not all of us are

so familiar with legal tech tools or the implications of digital assets in insolvency. Thus, it is our duty to help INSOL Europe’s members to be able to deal with cases in which they



The IT&DA has decided that one of its main projects for the future will be to create a cross-border case register with Court decisions that involve digital assets under insolvency



encounter crypto assets or new business models such as 100% virtual businesses (let us think of on-line platforms, for example). Some of our members have been involved in such cases, such as Pierre-Gilles Wogue in France (Viadeo case) or José Carles in Spain (Casa y Lienzo case), both in 2016. In these cases with non-tangible assets, the debtors' value is also non-tangible and therefore, the expectation of recovery of creditors could just disappear overnight.

Cross-border analysis

Our working group highlight was producing a cross-border analysis on the **Court-related technology measures adopted by European** (and even some non-European) **countries as a result of the COVID-19 pandemic**, mainly related to on-line filings and platforms and virtual hearings in insolvency-related cases. This analysis was published in the Summer 2020 edition of Eurofenix. Further articles on this matter could be published in Eurofenix if there are relevant

developments on the tech-based relationship between lawyers, insolvency practitioners and Courts (i.e. virtual hearings).

Valuing digital assets

Regarding future projects, and also with a pan-European focus, the Insolvency Tech & Digital Assets Wing insisted on the need to analyse **how digital assets are valued, transferred and safeguarded** – so their value is not lost. In this respect, our members talked not only about cryptocurrencies, they also referred to certain intangible assets and to certain on-line platforms and webshops. They also discussed the **cross-border difficulties** that may arise in these cases and commented on the need of cooperation between European Courts and insolvency practitioners in cases involving digital and non-tangible assets, as well as on the advances made in the European Insolvency Regulation Recast. Rapid decisions that require cooperation are necessary in cases involving these assets.

Cross-border register

In this respect, there are already some relevant rulings at a national level (in Europe and outside), which could help Courts and insolvency professionals from other European countries face cases in which these assets are involved. The Insolvency Tech and Digital Assets Wing unanimously decided that one of its main projects for the future will be to create a **cross-border case register with Court decisions that involve digital assets under insolvency**. The case register will include rulings but also relevant reports of the liquidators or insolvency practitioners and will allow producing, in the future, a comparative study so that INSOL Europe can continue contributing to the need of harmonisation in the insolvency legislation within the European Union. This would also allow producing quick and easy check-

lists in European jurisdictions on the steps to be followed when insolvency and/or restructurings involve digital and non-tangible assets. Our co-chairs will contact the European Commission in order to develop this project.

National players

The Insolvency Tech and Digital Assets Wing has also been recently working on spotting the **national players in legal tech, crypto and digital assets**. In some jurisdictions, it is bar associations or universities. In others, private entities have taken the lead. There are also European entities who deal with these issues and have representation across Europe (such as ELTA, the European LegalTech Association). In 2021, our wing will be contacting these organisations to build a network and strengthen our links with them.

As you can imagine, all these projects are possible because of the contributions and implication of the wing's members, so do not hesitate to drop a line to any of our co-chairs (José Carles, Laurent Le Pajolec and David Orsula) if you would like to be involved with any of these projects.

We are organising a new on-line meeting of the members of the wing (and those of you who are interested in being implicated in our activities) for the beginning of 2021, do not miss it! ■



JOSÉ CARLES
Lawyer, CARLES | CUESTA
Abogados, Madrid, Spain



LAURENT LE PAJOLEC
Accountant, EXCO A2A
Polska, Warsaw, Poland



DAVID ORSULA
Insolvency Practitioner,
bnt attorneys in CEE,
Bratislava, Slovak Republic