**INSOL EUROPE**

**DIGITAL ASSETS CASE SUMMARIES**

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| **Overview** | |
| **Case Citation** | N/A |
| **Date of judgment** | 19 April 2021 |
| **Country** | Turkey |
| **Original Language of Judgment** | Turkish |
| **Court** | Istanbul [Confidential] Court of Execution |
| **Subject matter/catchwords** | Istanbul Court of Execution confirmed that crypto coins can be subject to attachment proceedings. |
| **Decision summary** | The court of execution decided cryptocurrencies can be subject to the attachment on the ground that such assets must be considered within the scope of commodities or securities as they can be regarded as a digital foreign exchange or a digital currency. |
| **The digital asset involved (e.g. Bitcoin, Ethereum, Ripple, etc.)** | Not specified |
| **Valuation issues** | N/A |
| **Expanded Case Description** | |
| **Debtor** | [Confidential] |
| **Identity of Insolvency Practitioner (if applicable)** | N/A |
| **Authorities considered by this case (categorized by country)** | Istanbul 14th Execution Office  Istanbul [Confidential] Court of Execution |
| **Domestic legislation applied** | Article 89 of the Law No. 2004 on Execution and Insolvency (“**LEI**”) |
| **Factual background** | On 5 March 2021, Istanbul 14th Execution Office attached the debtor's crypto coin accounts and sent a notification to the cryptocurrency exchange platform on which the debtor affected his cryptocurrency transactions, warning that any payments from that very moment must be made to the execution office instead of the debtor until the debt is fully paid.  The debtor objected execution office’s attachment claiming that cryptocurrency exchange platforms are neither a bank nor capital markets intermediary institutions.  The court overruled the debtor's objection regarding the attachment because such assets must be regarded as though they are a commodity or security as they can be considered a digital foreign exchange or a digital currency. |
| **Legal issues** | The main legal issue considered by the court was whether cryptocurrencies could be subject to attachment proceedings.  In Turkish law, execution proceedings are separately determined for movable and immovable properties. According to Article 106 of the LEI, receivables of the debtor from third parties are also considered as though immovable properties with respect to execution proceedings. In this respect, movable and immovable properties and receivables from third parties can be attached.  The qualification of cryptocurrencies is controversial in Turkish law and the legal framework yet to be drawn. Various scholars suggest that they can be regarded as a commodity, movable property, money, or foreign exchange.  By Turkish scholars, the assets that can be attached for the debtor’s debt is interpreted broadly to include any asset of the debtor that has a monetary value[[1]](#footnote-1). As cryptocurrencies represent a monetary value, it is accepted that they can be subject to attachment proceedings[[2]](#footnote-2). Their qualification is, however, controversial. |
| **Reasoning** | The court based its decision on the ground that cryptocurrencies must be considered within the scope of commodities and securities as they can be regarded as a digital foreign exchange or digital currency. The court's qualification is limited to the scope of LEI and it should be noted that whether cryptocurrencies can be considered as a digital foreign exchange or a digital currency is controversial in Turkish law as they are not issued and guaranteed by governments. |
| **Further information (e.g. liquidator’s website)** | N/A |

1. **KURU**, Baki; Haczi Caiz Olmayan Şeyler, AÜHFD, 1962. [↑](#footnote-ref-1)
2. **ÖZSOY**, İlker Mete; Kripto Para Varlıklarının Cebrî İcra Yolu ile Haczi, Ankara, 2019. [↑](#footnote-ref-2)