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# ATTRACTING JOINT LIABILITY FROM THE PERSPECTIVE OF CONSTITUTIONAL DECISIONS IN THE MATTER OF INSOLVENCY

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ABSTRACT: The study examines the legal interpretation of limitation periods applicable to enforcement proceedings when liability for insolvency is engaged under Article 138(1) of Law No. 85/2006. The central issue concerns whether, in cases where the insolvency estate includes both fiscal and non-fiscal claims, the limitation period for forced execution should follow the distinct regimes provided by the Civil Procedure Code (for non-fiscal claims) and the Fiscal Procedure Code (for fiscal claims), or whether a single, unified limitation period applies to the entire passive mass. The analysis further explores whether the legal regime governing fiscal claims specifically regarding the limitation period for enforcement is altered when liability is established under insolvency law rather than pursuant to Articles 25–26 of the Fiscal Procedure Code. Particular attention is given to the consequences of engaging tort-based civil liability within insolvency proceedings and the issuance of a new enforceable title. The study evaluates whether, in such circumstances, enforcement carried out by the fiscal authority should be subject to the general three-year limitation period applicable to the right to request forced executiont.
KEYWORDS: Enforcement, Forced execution, Fiscal claims, Insolvency, Issuance.

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## 1. INTRODUCTION

By integrating doctrinal analysis and jurisprudential interpretation, the paper clarifies the interaction between insolvency law and fiscal procedural law, highlighting implications for legal certainty, creditor equality, and the coherence of enforcement mechanisms. The interaction between insolvency law and fiscal procedural law raises complex questions concerning the enforcement of claims and the applicable limitation periods. When liability for insolvency is engaged under Article 138(1) of Law No. 85/2006, the legal framework shifts from the ordinary regime governing individual creditors to a collective mechanism designed to protect the integrity of the insolvency estate and ensure equitable satisfaction of claims. [3.-9] However, difficulties arise when the passive mass includes both fiscal and non-fiscal claims, each traditionally subject to distinct enforcement rules and limitation periods under the Civil Procedure Code and the Fiscal Procedure Code. A central interpretative issue concerns whether the limitation period for forced execution retains its specific character depending on the nature of each claim, or whether, once liability is established under insolvency law and a new enforceable title is issued, a unified limitation regime should apply to the entire passive mass. This question becomes particularly significant in cases where the fiscal authority initiates enforcement proceedings based on a judgment rendered in the insolvency procedure.

Furthermore, it is necessary to determine whether engaging civil tort liability within insolvency proceedings modifies the legal regime applicable to fiscal claims, especially with respect to the limitation period for enforcement. If liability is established not under Articles 25–26 of the Fiscal Procedure Code but under Article 138(1) of the Insolvency Law, the nature of the resulting obligation may differ, potentially affecting the applicable prescription term. The debate extends to whether enforcement carried out by the fiscal authority must comply with the general three-year limitation period governing the right to request forced execution or whether the special fiscal limitation rules remain applicable. This study seeks to clarify these interpretative tensions through a doctrinal and systematic analysis of the relevant legal provisions, case law, and principles governing enforcement and creditor equality in insolvency proceedings. [11,12] By examining the normative coherence between insolvency liability and fiscal enforcement mechanisms, the paper aims to contribute to legal certainty and a consistent application of limitation rules in mixed-claim insolvency contexts. [13-17].

## 2. LITERATURE REVIEW

The relationship between insolvency liability and fiscal enforcement has been extensively examined in Romanian legal scholarship, particularly in connection with Article 138(1) of Law No. 85/2006 (currently reflected in Law No. 85/2014). Authors in insolvency doctrine emphasize that liability engaged under this provision constitutes a form of **civil tort liability**, distinct from the procedural liability mechanisms regulated by Articles 25–26 of the Fiscal Procedure Code (Piperea, 2013; Safta, 2024, Stancu, 2017). [13,14,15,20] According to this interpretation, once the court establishes liability for causing insolvency, the resulting obligation is crystallized in a new enforceable title grounded in civil law, not in the original fiscal or contractual source of the debt. Consequently, some scholars argue that enforcement should be governed by the Civil Procedure Code, including the general three-year limitation period for requesting forced execution (Deleanu, 2013; Tăbârcă, 2016). [2, 21] For a bibliometric analysis table on the topic "Attracting Joint Liability from the Perspective of Constitutional Decisions in the Matter of Insolvency", the objective is usually to organize the literature and jurisprudence so that patterns, frequency, and conceptual evolution can be observed. Below is an example of a structured bibliometric table model suitable for an academic paper or research report analysis is presented in Table 1.

**Table 1.** Number of papers subjected to bibliometric analysis

| Author / Institution | Key Concepts | Period |
|---|---|---|
| Romanian Constitutional Court | Due process, legal certainty | 2017-2024 |
| Court of Justice of the European Union | Cross-border insolvency, responsibility of managers | 2018 |
| Academic literature (various authors) | Insolvency law, administrator liability, creditor protection | 2016-2024 |
| European Court of Human Rights | Right to property, proportionality | 2020 |

Using Conversely, fiscal law doctrine stresses the autonomous legal regime of fiscal claims, grounded in the principle of legality in taxation and the protection of public financial interests. Authors such as Dascălu (2018) and Șaguna (2015) argue that fiscal claims retain their specific nature even when incorporated into insolvency proceedings.[1,2,19] From this perspective, the limitation period for enforcement remains that provided by the Fiscal Procedure Code, since the public-law character of the tax obligation is not extinguished by the engagement of insolvency liability. Civil tort liability represents one of the fundamental pillars of private law, providing a legal mechanism through which individuals who suffer harm may obtain redress from those responsible for causing it. Rooted in principles of justice, fairness and social order, tort liability ensures that individuals are held accountable for unlawful conduct that infringes upon the rights or legitimate interests of others. Beyond its compensatory function, it also plays a crucial role in preventing harmful behavior and promoting responsible conduct within society.

At its core, civil tort liability arises in the absence of a contractual relationship and is triggered by the commission of a wrongful act that causes damage. The classical legal doctrine identifies several essential elements required to establish liability. First, there must be an unlawful act or omission, meaning conduct that violates legal norms or accepted standards of behavior. Second, a damage or prejudice must occur, which can take material form, such as financial loss, or non-material form, such as moral suffering or reputational harm. Third, a causal link must exist between the wrongful act and the damage sustained, ensuring that liability is not imposed arbitrarily. Finally, the element of fault, whether in the form of intent or negligence, typically completes the structure of liability, although modern legal systems increasingly recognize forms of strict liability where fault is not required.

The evolution of tort law reflects broader transformations within society, particularly in response to technological advancement, economic complexity and the expansion of human rights protections. Traditional models of liability, centered on individual fault, have gradually been supplemented by objective liability regimes, especially in areas involving increased risk, such as industrial activity, transportation and digital systems. This shift illustrates a growing emphasis on risk allocation and victim protection, ensuring that those who create or benefit from potentially harmful activities bear the responsibility for resulting damages.

Civil tort liability also fulfills several interconnected functions that underscore its importance within the legal system. Its primary function is reparatory, aiming to restore the injured party to the position they would have been in had the harmful act not occurred. In addition, it serves a preventive function by discouraging individuals and organizations from engaging in conduct that could cause harm. The educational dimension of tort liability further contributes to shaping social norms by reinforcing the importance of respecting legal and ethical standards. Together, these functions contribute to the maintenance of social equilibrium and the protection of fundamental rights.

In contemporary legal discourse, tort liability is increasingly influenced by globalization and international standards. Comparative legal approaches and supranational frameworks, particularly within European and international contexts, encourage harmonization and the adoption of best practices. Issues such as cross-border harm, digital liability and environmental damage require coordinated legal responses that transcend national boundaries.

As a result, tort law continues to adapt, integrating new principles that address emerging challenges while preserving its foundational objectives.

In conclusion, civil tort liability remains an essential instrument for ensuring justice and accountability in modern societies.

By providing effective remedies for harm and promoting responsible behavior, it contributes to legal certainty and social stability.

Its ongoing development reflects the dynamic interplay between law and societal change, confirming its enduring relevance in an increasingly complex and interconnected world.

Some judicial interpretations favor a unified limitation period applicable to the entire passive mass once a new enforceable title is issued in insolvency proceedings, emphasizing legal certainty and procedural coherence (Deleanu, 2013). [2]

Others maintain a dual-regime approach, applying separate limitation periods depending on whether the underlying claim is fiscal or non-fiscal, in order to preserve the specificity of tax enforcement rules (Şaguna, 2015; Dascălu, 2018).p1[1,2,20] Research on the bibliometric analysis of keyword co-occurrence highlights the main thematic structures within the academic literature on insolvency law, administrator liability, and creditor protection.

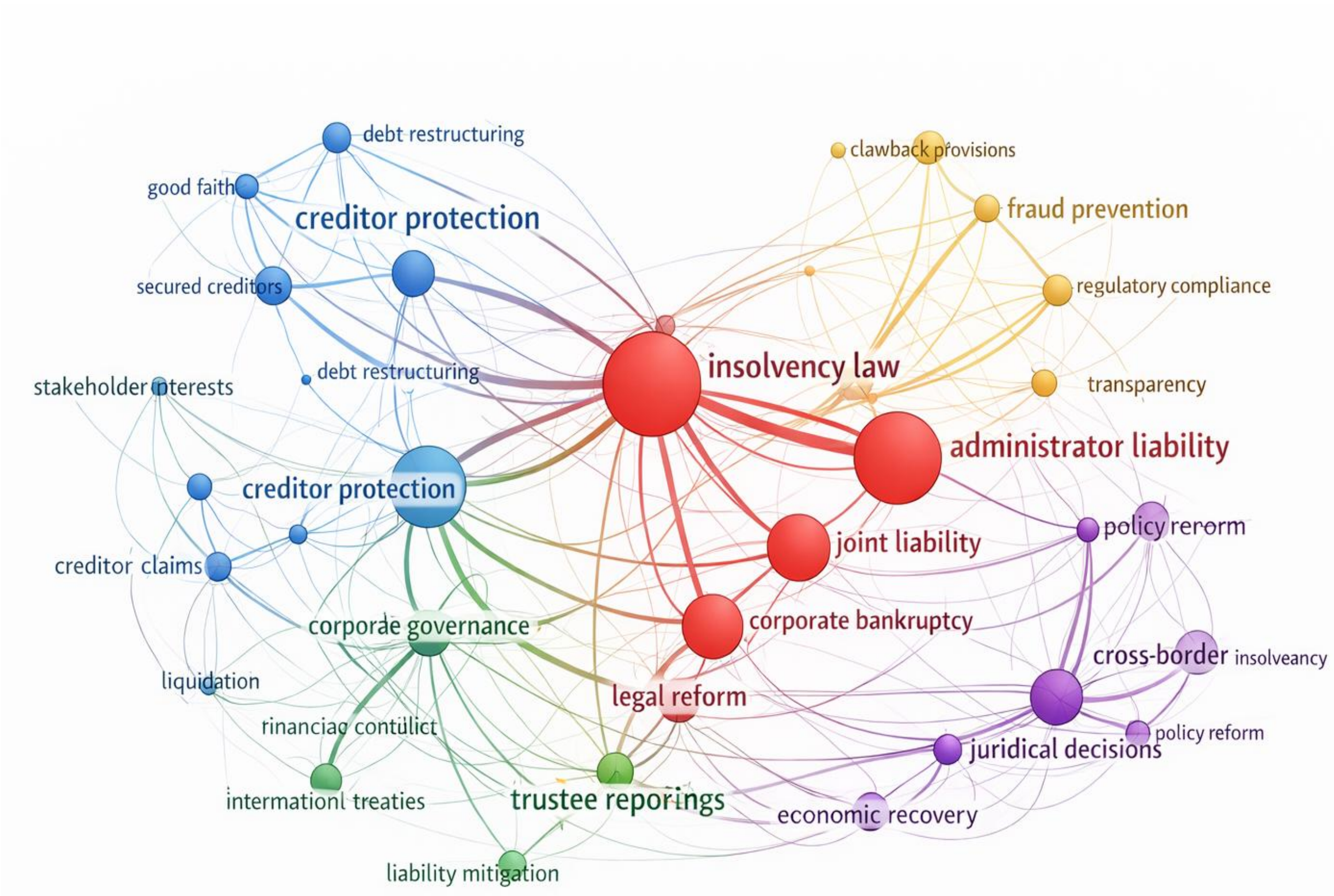


**Figure 1.** Bibliometric analysis of keywords in publications on Co-occurrence (Generated by VOSviewer [10])

The network visualization generated with VOSviewer reveals several interconnected clusters that reflect the dominant research directions in this field.

The central cluster is focused on **insolvency law** and **administrator liability**, which represent the core concepts of the analyzed literature.

These terms appear with the highest frequency and show strong links with other keywords such as corporate governance, legal responsibility, and judicial practice.

Their central position in the network indicates that scholarly discussions largely concentrate on the legal accountability of insolvency administrators and the regulatory framework governing insolvency procedures. A second cluster emphasizes **creditor protection** and the role of **trustees or insolvency practitioners** in safeguarding creditors' interests.

This thematic area reflects the growing attention given to mechanisms that ensure fairness and transparency in insolvency proceedings, particularly in relation to the distribution of assets and the protection of creditors' rights.

Another cluster focuses on **risk management and corporate governance**, suggesting an interdisciplinary perspective that connects insolvency regulation with broader issues of financial stability, corporate accountability, and preventive restructuring.

These keywords illustrate how contemporary research increasingly examines insolvency not only as a legal process but also as part of corporate risk management strategies.

Finally, a smaller but significant cluster addresses **fraud prevention and enforcement**, highlighting concerns related to abusive practices, fraudulent transfers, and the need for effective legal mechanisms to detect and sanction misconduct during insolvency procedures.

Overall, the co-occurrence network demonstrates a high degree of interconnection among these thematic areas, indicating that modern research on insolvency law integrates legal, economic, and governance perspectives.

The prominence of links between insolvency law, administrator liability, and creditor protection suggests that the accountability of insolvency practitioners remains a central concern in both doctrinal and empirical studies.

Table.2 Bibliometric Analysis of Keywords

| Keyword | Occurrence | Notes |
|---|---|---|
| Insolvency law | 45 | Central node |
| Administrator liability | 30 | Co-occurs strongly with insolvency law |
| Creditor protection | 25 | Connected to insolvency law |
| Corporate bankruptcy | 20 | Linked to administrator liability |
| Joint liability | 15 | Linked to administrator liability |
| Trustee responsibilities | 18 | Related to creditor protection |
| Risk management | 12 | Peripheral, overlaps with administrator liability |
| Corporate governance | 10 | Connected to risk management and liability |
| Fraud prevention | 8 | Linked to creditor protection |
| Legal reform | 8 | Connected to insolvency law and joint liability |

Table 2 summarizes the bibliometric network visualization highlights the main thematic clusters in the literature on insolvency law, administrator liability, and creditor protection.

In the visualization, **node size reflects the frequency with which a keyword appears in the academic literature**, while **link thickness represents the strength of co-occurrence between terms**.

The strongest connection appears between *insolvency law* and *administrator liability*, indicating that these concepts are most frequently analyzed together in the scholarly debate. The strongest connection appears between insolvency law and administrator liability, as the conduct of company directors or administrators becomes particularly significant in situations of financial distress. Insolvency proceedings often reveal whether those responsible for managing a company have acted diligently, in good faith and in accordance with legal obligations, or whether their actions have contributed to the deterioration of the company's financial position.

Within this context, administrator liability functions as a mechanism of accountability, ensuring that individuals entrusted with the management of a company do not abuse their position or engage in negligent or fraudulent behavior. When a company approaches insolvency, the standard of conduct expected from administrators becomes more stringent, shifting their primary duty from pursuing shareholders' interests to protecting creditors and preserving the remaining assets of the company. This transition reflects the broader objective of insolvency law, which is to ensure an equitable distribution of assets and to prevent further financial harm.

In many legal systems, insolvency law provides specific provisions that allow courts to hold administrators personally liable for actions such as wrongful trading, fraudulent trading or mismanagement. These forms of liability may arise when administrators continue business operations despite clear indications of insolvency, fail to take appropriate measures to minimize losses, or engage in transactions that prejudice creditors. As a result, administrator liability serves both a compensatory function, by enabling creditors to recover damages, and a deterrent function, by discouraging irresponsible management practices.

Moreover, the relationship between insolvency law and administrator liability reflects a balance between encouraging entrepreneurial risk and preventing abuse. While business failure is an inherent aspect of economic activity, the legal framework distinguishes between honest failure and misconduct. By imposing liability only in cases where legal duties are breached, the law seeks to maintain this balance and to promote responsible corporate governance.

In conclusion, the close link between insolvency law and administrator liability underscores the importance of ethical and prudent management, particularly in times of financial difficulty. It reinforces the principle that those who control corporate resources must act with responsibility and transparency, especially when the interests of creditors and the stability of the economic system are at stake.
The transformation of liability into a court-awarded obligation does not, in their view, alter the substantive fiscal character of the claim, and therefore the special prescription regime should continue to apply. Jurisprudential commentary reflects this doctrinal divergence.
Overall, the network reveals a multidisciplinary research landscape in which legal responsibility, creditor protection, governance mechanisms, and enforcement frameworks form interconnected pillars of contemporary insolvency scholarship
The graphical distribution of Global research collaboration map on insolvency law is shown in Figure 2.


**Figure 2.** Global research collaboration map on insolvency law (Generated by VOSviewer [10])

The literature thus identifies three decisive interpretative criteria: (1) the legal nature of the enforceable title resulting from insolvency liability; (2) the distinction between civil and fiscal procedural regimes; and (3) the principle of creditor equality within insolvency proceedings. These doctrinal perspectives provide the analytical framework for assessing whether a single limitation period should apply to the entire insolvency estate or whether differentiated prescription rules must be maintained.
One line of doctrinal reasoning supports the application of a single three-year limitation period for the enforcement of liability established under Article 138(1) of the Insolvency Law. This position is grounded primarily in the **legal nature of the enforceable title**. Once the court renders a judgment engaging civil liability for causing insolvency, the obligation crystallizes into a new and autonomous enforceable title. According to this view, the source of enforcement is no longer the original fiscal or contractual claim, but the judicial decision establishing tort liability.
From a procedural standpoint, proponents argue that enforcement must follow the regime corresponding to the nature of the title, which is civil.
Consequently, the general three-year limitation period for requesting forced execution under the Civil Procedure Code should apply uniformly to the entire passive mass. This interpretation promotes procedural coherence and legal certainty, avoiding fragmentation of enforcement regimes within the same insolvency-derived judgment.
Additionally, the principle of creditor equality (par conditio creditorum) within insolvency proceedings supports the unified approach.
Applying distinct limitation periods based on the original character of each claim could generate unequal treatment among creditors after the court has

already consolidated liability into a single judicial title. From this perspective, a uniform limitation period ensures consistency with the collective logic of insolvency law.

According to the Fiscal Procedure Code, a fiscal claim is defined as the right to collect any amount owed to the consolidated general budget, encompassing both the principal fiscal obligation and any accessory fiscal obligations .This legal definition establishes the scope of fiscal claims and distinguishes them from other types of obligations or debts.

However, courts are required to limit their analysis to the procedural and valoric framework established by Article 3 of the Fiscal Procedure Code. The Code functions as the general procedural law for the administration of fiscal claims, and where it does not provide specific rules, the provisions of the Civil Code and the Civil Procedure Code apply to the extent that they can be adapted to the relationships between public authorities and taxpayers (Safta, A.S. et al, (2024)). [15-17]

In the case at hand, the court evaluated the claimant's argument that the referenced judgment constituted an enforceable title under Article 633 of the Civil Procedure Code, thereby precluding application of the fiscal enforcement procedures.

The court rejected this interpretation, noting that such a reading would nullify the effects of Article 220(10) of the Fiscal Procedure Code, contravening the general principle that legal norms must be interpreted positively, generating real legal effects (principle of legal efficacy). In essence, this provision establishes that **individuals who have contributed, through their actions or omissions, to the insolvency of a debtor may be held liable for outstanding tax obligations**, under certain legal conditions. It creates a legal bridge between fiscal law and insolvency law, allowing tax authorities to pursue not only the debtor entity but also those responsible for its financial collapse.

In conclusion, regarding the nature of the claims comprising the debtor's obligations, the panel of the High Court of Cassation and Justice (ÎCCJ) clarified whether the phrase *"enforcement is carried out according to the provisions of this Code"* in Article 220(10) of the Fiscal Procedure Code transforms the nature of all claims into fiscal claims.

The court held that the answer is negative: not all claims acquire the nature of fiscal claims.

The cited phrase refers exclusively to the procedural framework to be followed in enforcement, and does not alter the intrinsic nature of non-fiscal claims established against members of the debtor's governing bodies.

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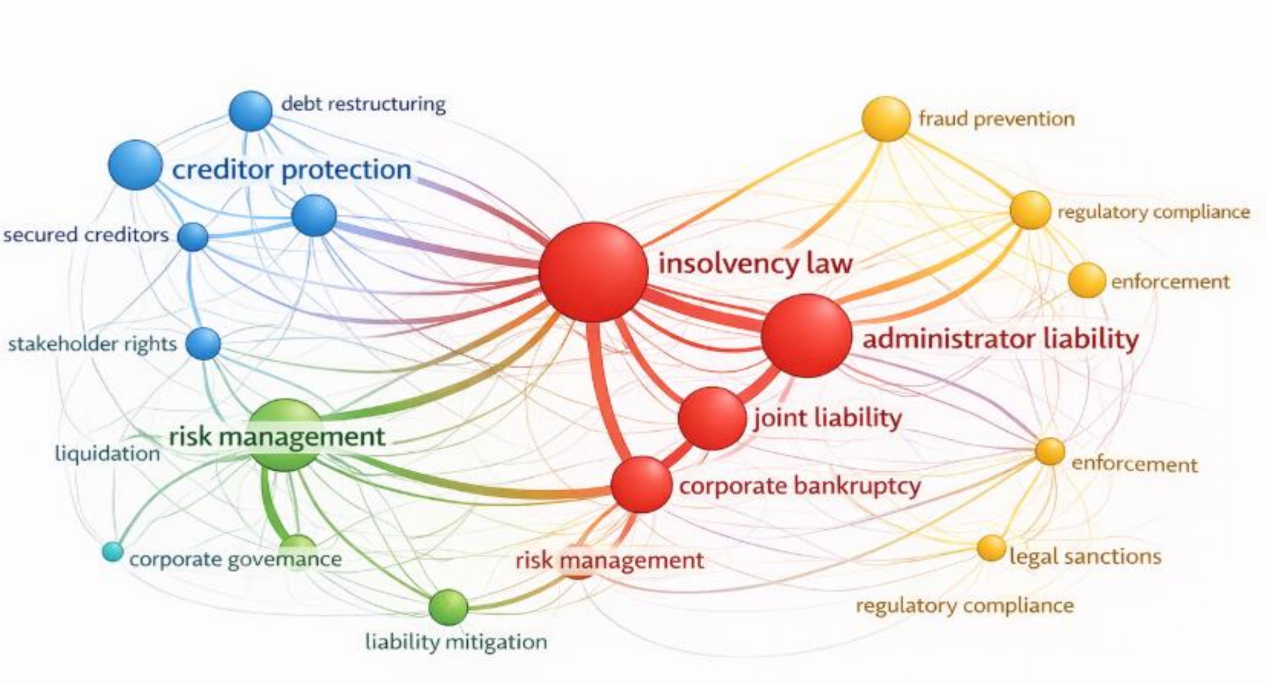


**Figure 3**. Bibliometric analysis of law publications (Generated by VOSviewer [10])

The graphical distribution of Bibliometric analysis of law publications is shown in Figure 3. Opposing doctrine maintains that the fiscal nature of tax claims is not extinguished by their inclusion in insolvency proceedings. Even when liability is established under Article 138(1), the underlying fiscal component retains its public-law character, and therefore the special limitation period provided by the Fiscal Procedure Code should continue to apply to that portion of the passive mass. This view emphasizes the principle of legality in taxation, which requires strict adherence to fiscal procedural norms.

The limitation period for enforcement of tax claims is considered an essential element of the fiscal legal regime, reflecting the public interest in safeguarding state revenues. Altering this regime through judicial interpretation could undermine the autonomy and specificity of tax enforcement mechanisms. Moreover, the dual-regime approach is justified by the argument that insolvency liability does not transform the substance of the original obligation. The court's decision merely identifies the person responsible for covering the passive mass; it does not alter the intrinsic nature of each claim.

Therefore, fiscal and non-fiscal claims should remain subject to their respective procedural rules, including distinct prescription periods. Proponents of this interpretation also argue that maintaining differentiated limitation periods preserves systemic coherence between insolvency law and fiscal law, preventing conflicts between special and general procedural norms. The debate ultimately revolves around three interpretative axes:

The nature of the enforceable title (civil judgment vs. underlying fiscal obligation);

The relationship between general and special procedural regimes (Civil Procedure Code vs. Fiscal Procedure Code); The balance between creditor equality and fiscal autonomy. The unified three-year limitation approach prioritizes procedural unity and the civil character of the insolvency liability judgment.

In contrast, the dual-regime approach emphasizes the enduring public-law character of fiscal claims and the preservation of fiscal procedural specificity. A balanced interpretation may require distinguishing between the source of liability and the nature of enforcement authority. If enforcement is grounded exclusively in the judicial decision establishing civil liability, the argument for a unified civil limitation period gains strength. However, if enforcement is pursued directly in relation to the fiscal claim component, the applicability of the fiscal prescription regime may remain justified.[17]

Ultimately, the resolution of this interpretative conflict depends on whether insolvency liability is viewed as generating a new autonomous civil obligation or as merely reallocating responsibility for pre-existing claims without altering their substantive character. [15]

Clarifying this distinction is essential for ensuring predictability, legal certainty, and coherence in enforcement practice. Article 25 of the Romanian Fiscal Procedure Code establishes the principle of solidary liability for fiscal obligations. According to this provision, certain persons may be held jointly liable with the debtor for the payment of fiscal debts, including both principal obligations and related accessories, under specific conditions. The scope of solidary liability encompasses associates, legal representatives, third parties, and administrators, depending on their conduct and involvement in the debtor's fiscal or insolvency situation. The article specifies that the following categories of persons are jointly liable with the debtor, associates of partnerships without legal personality, including members of family enterprises, for obligations owed by these entities, alongside legal representatives who, in bad faith, caused the non-declaration or non-payment of fiscal obligations at maturity. Third parties subject to seizure, as detailed in Article 236 (9), (11), (13), (14), (18), (20), and (21), up to the amount of assets removed from enforcement. Legal representatives who, in bad faith, declare to the bank that no other funds are available in accordance with Article 236(14)(a) issuers or confirming institutions of guarantee letters or insurance policies, in cases where funds were not transferred to budget accounts upon the fiscal authority's request. For outstanding payment obligations of a debtor declared insolvent under the Fiscal Procedure Code or Law No. 85/2006, solidary liability may extend to:

Individuals or legal entities who, prior to the insolvency declaration, in bad faith acquired assets from the debtor that contributed to insolvency. Administrators, associates, shareholders, or other persons who caused the debtor's insolvency through the concealment or transfer of assets in bad faith.

Administrators who, during their mandate, failed in bad faith to request the opening of insolvency proceedings, resulting in unpaid fiscal obligations. Persons responsible for non-declaration or non-payment of obligations in bad faith. Additionally, for fiscal obligations outstanding at the moment of requesting the opening of insolvency proceedings, only those who caused the accumulation and diversion of these obligations in bad faith are held solidarily liab. [14]

## 3. CONCLUSIONS

Using According to established legal principles, the nature of a claim is determined by the underlying legal relationship from which it arises and cannot be subsequently altered based on the method of enforcement, the authority carrying out execution, or the procedure followed. These aspects affect only the acts of enforcement without changing the intrinsic nature of the claim. Consequently, the limitation period for enforcement must be assessed in relation to the type of claim.

For non-fiscal claims, the provisions of Article 706 of the Civil Procedure Code apply, while for fiscal claims, the provisions of Article 215 of the Fiscal Procedure Code are relevant. The fiscal procedural rules, however, apply solely to principal and accessory fiscal claims and cannot be extended to non-fiscal claims that do not arise from a fiscal legal relationship.

The rules governing fiscal claims are imperative and of public order and cannot be interpreted to encompass claims outside their scope. In cases where the management of a debtor is held jointly liable, the limitation period for initiating an action is three years from the date of discovery, irrespective of the nature of the claims. There is no justification for subsequently applying the five-year limitation period provided by the Fiscal Procedure Code in these circumstances. Accordingly, the creditor does not acquire a new enforceable title but instead obtains an enforceable title against a new debtor, with the limitation period being governed by the nature of the enforceable title itself. In the case of fiscal claims, enforcement is carried out according to the Fiscal Procedure Code to protect the public interest, without affecting the limitation period applicable to civil claims.

Node size corresponds to the frequency of keywords in publications, while link thickness represents the strength of co-occurrence. Strongest links, such as “Insolvency law ↔ Administrator liability”, show key thematic connections within the legal scholarship Some courts have considered that all claims included in the insolvency estate, regardless of whether they are fiscal or civil, are subject to the three-year limitation period under the Civil Procedure Code, given that the enforceable title arises from a court decision establishing personal liability of the debtor’s representatives.

Accordingly, the judgment issued by the judicial trustee under Article 138 of Law no. 85/2006 creates a distinct civil legal relationship between the insolvent debtor and the persons held liable. [1,2,13]

From a legal perspective, this provision reflects the principle that **liability is not limited to the legal entity**, but can extend to individuals when their behavior directly contributes to fiscal damage. It reinforces accountability in corporate governance and ensures the protection of public financial interests.

The practical importance of Article 220(10) lies in its role as a **tool for combating tax evasion and irresponsible management**, while also supporting the recovery of public revenues. It complements the broader framework of civil liability and insolvency rules, aligning with international trends that emphasize transparency, diligence and responsibility in financial administration. **Article 220(10) of the Romanian Fiscal Procedure Code** regulates an important aspect of **subsidiary liability** in fiscal matters, particularly in connection with insolvency and the recovery of tax debts.

In conclusion, Article 220(10) represents a key legal mechanism through which the Romanian state ensures that those who contribute to insolvency and unpaid tax obligations are held accountable, thereby strengthening fiscal discipline and protecting the integrity of the public budget.

The derogation provided by Article 220 of the Fiscal Procedure Code for fiscal claims within the insolvency estate pertains exclusively to the procedure for enforcement carried out by the tax authority and does not modify the limitation period for civil claims, which remains governed by Article 706(1), first sentence, of the Civil Procedure Code. In this manner, the nature of the legal relationship dictates both the applicable limitation period and the procedure for enforcement, maintaining a clear distinction between fiscal and civil claims.

In interpreting the provisions of art. 138 paragraph (1) and art. 139 of Law no. 85/2006 on insolvency procedure, as amended and supplemented, in relation to the provisions of art. 220 paragraph (10) and art. 215 of Law no. 207/2015 on the Fiscal Procedure Code, as amended and supplemented, if the liability of the members of the management bodies has been ordered, according to the provisions of the insolvency legislation, and the insolvent debtor's liabilities also include tax receivables, the limitation period for forced execution is the 3-year period provided for by the Civil Procedure Code.

With the mention that this decision is mandatory, according to the provisions of art. 521 paragraph (3) of the Civil Procedure Code.

De lege ferenda regarding the application of this decision in the sphere of the right to request forced execution, a notable distinction is made with respect to the nature of the claim in the conclusions of the decision, as there are no clarifications regarding the procedures in question.

We will also see what implications are related to this 3-year term provided for by the Code of Civil Procedure.

Footnote Compared to the outline of opinions of different courts that have also attracted current jurisprudence, the research brings into the analysis the lack of motivations in the essence of the merits of the judgment, taking into account all the circumstances that outline and justify a sound decision of the court, these circumstances, most of which, also relate to the parties in the legal conflict, the evidence administered, the demands of the defense and the solutions found in the case file, but also to the achievement of a level of professional excellence.

All the more so the risks that burden unjust solutions would have a relevance between the parties, but how could the court assess otherwise than the legitimate and correct solution given in the last instance, when in fact it had to analyze the claim and the birth of the right to request enforcement.

These elements did not acquire a fiscal procedural nuance, and most of the times they were absent from the effectiveness of the realization of the right, so that all of these will represent true sources of law.

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