

# **The Legal Regime of the Assets remaining in the Debtor's Patrimony after the Closure of the Insolvency Procedure in Romania**

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*The legal situation of the assets remaining in the patrimony of a debtor company after its deletion following an insolvency procedure raises both theoretical and practical concerns. Under the current Romanian framework, Law no. 85/2014 on the insolvency proceedings offers a general mechanism for managing the debtor's assets; however, it does not comprehensively address situations in which certain assets remain unvalued or undistributed during liquidation. These circumstances give rise to complex legal issues, including the analysis of the reasons why such assets were not realised during insolvency, their legal fate following the company's dissolution, the rights of creditors, and the potential for judicial correction of these procedural omissions. Legal security requires the implementation of clear legislative reform measures to determine the fate of such residual assets and to protect the legitimate rights of creditors and other affected parties.*

**Keywords:** *Insolvency; Assets, Deletion of the company; Legal security; Amendment proposal*

## **Introduction**

The closure of insolvency proceedings and the deregistration of the debtor company from the trade register formally mark the legal termination of that legal entity's existence. At this stage, the liquidator is expected to have completed the realisation of all assets and the distribution of proceeds to creditors, by the legal provisions and the applicable order of priority expressly regulated by Law No. 85/2014 (formerly Law No. 85/2006). However, in practice, it is not uncommon for certain assets to remain unliquidated in the patrimony of the deregistered company, whether due to negligence, concealment, or the practical impossibility of identification and individualisation during the proceedings.

This situation raises a fundamental legal question: what is the legal regime applicable to assets that formally "survive" the legal entity, even though it has been deregistered and its legal personality has ceased by operation of law? Deregistration fully affects the company's legal capacity, and the legal person ceases to exist as a subject of law<sup>1</sup>. Furthermore, if these assets were not liquidated during the

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<sup>1</sup>Decision No. 1966/2012 of the High Court of Cassation and Justice, Second Civil Division states that "the deregistration of a commercial company entails the nonexistence of that entry as a legal subject with the consequence that it can no longer participate in legal relations". The decision is available at [www.scj.ro](http://www.scj.ro).

proceedings and never entered the civil circuit, one must determine the rightful holder of legal title over them. This is not merely a theoretical concern—it arises frequently in practice, especially in the context of digitalised land records or administrative property regulations.

In the absence of express legal provisions governing the status of such assets, legal doctrine and case law have proposed several divergent solutions. Some authors<sup>2</sup> argue that the remaining assets are automatically transferred to the former shareholders, in proportion to their shareholding, based on the associative nature of the company. Others maintain that the assets become *bona vacantia* and may be taken over by the state, by general civil law. A third position holds that transfer may occur only through a judicial mechanism, either by an action for declaratory judgment initiated by the shareholders or by reopening insolvency proceedings based on express legal provisions.

It is thus clear that the legal regime governing assets remaining in a company's patrimony after the conclusion of insolvency and its deregistration is the subject of divergent doctrinal views and inconsistent judicial practice. The current normative uncertainty is neither natural nor desirable, and a coherent legal solution, preferably legislative, is urgently required to clarify the fate of such assets and eliminate systemic ambiguities.

### **The Closure of the Insolvency Proceedings and the Legal Effects of Company Deregistration**

In Romanian insolvency law, with the exception of cases in which reorganisation succeeds through the reintegration of the debtor into the market, the closure of insolvency proceedings marks the formal point at which all procedural phases have been exhausted: the debtor's assets have been realised, the liabilities have been determined and, to the greatest extent possible, covered, and the duties of the liquidator or judicial administrator have come to an end. This stage is confirmed by a ruling delivered by the syndic judge, a decision which has constitutive legal force and produces immediate legal effects upon the legal status of the debtor<sup>3</sup>.

In cases where it is established that the debtor's estate contains no assets, or that the assets are insufficient to cover administrative expenses, and the creditors do not agree to advance the necessary funds, the court shall issue a judgment ordering the closure of the insolvency proceedings and the deregistration of the debtor from the register in which it is incorporated, pursuant to Article 174 of the Insolvency Law.

According to Article 176 of Law No. 85/2014:

“If the claims have been fully covered through the distributions made, the syndic judge shall issue a ruling for the closure of the bankruptcy proceedings and the deregistration of the debtor from the relevant registry:

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<sup>2</sup>Piperea (2021) at 723: ‘the assets remaining after the closure may be transferred to the shareholders insofar as there are no creditors, by analogy with the division of jointly owned property’.

<sup>3</sup>Piperea (2021) at 876.

- a) Even before the assets of the debtor's estate have been fully liquidated, if all shareholders of the legal entity request this within 30 days from the notification issued by the judicial liquidator to the special administrator, in which case the remaining assets shall become co-owned by the shareholders or partners, according to their shareholding ratios;
- b) In all other cases, the procedure shall be closed only after the full liquidation of the assets, and any residual amounts from the final distribution shall be deposited in an account made available to the shareholders;
- c) If, after the satisfaction of all claims, the closure of the proceedings, and the deregistration of the debtor from the relevant registers, assets are identified that were not known during the insolvency procedure, such assets shall be transferred by operation of law to the patrimony of the shareholders."

In the case where the debtor is a legal person, the closure of the proceedings is followed by the deregistration of the entity from the relevant legal registries, a process ensured by the legislative requirement to communicate the court's closure judgment to the competent authorities<sup>4</sup>.

Deregistration operates automatically as a legal effect of the final closure of the proceedings, without the need for a separate request from the liquidator or any other interested party. The legal consequence of deregistration is the termination of the legal personality of the commercial company, which entails the loss of both legal capacity and capacity to act, meaning that the company can no longer act as a legal subject. This interpretation is consistently upheld in case law<sup>5</sup>, where courts have ruled that, following deregistration, the company can no longer be a party to legal proceedings nor hold rights or obligations.

Nevertheless, in practice, and not infrequently, certain assets are discovered in the patrimony of a deregistered company that were not realised during the insolvency procedure. These are mainly movable or immovable assets that were either not recorded in accounting documents, not registered in public real estate records, or were omitted, concealed, or simply unidentified by the liquidator or other parties involved. The absence of these assets from the official records of the procedure may result from either negligent or fraudulent conduct by the former administrator, or from objective factors, such as the lack of cadastral records or deficiencies in registration systems.

This type of situation raises a significant and current legal issue: to whom do these assets belong after the closure of proceedings and the deregistration of the company? Since the legal entity no longer exists as a subject of law, the assets can no longer formally belong to the company.

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<sup>4</sup>Art. 179 Law No. 85/2014: "The judgement closing the proceedings shall be notified by the insolvency judge to the regional or county public finance administration and to the trade register office or, as applicable, to the register of agricultural companies or other registers where the debtor is registered, for the purpose of recording the relevant entry"

<sup>5</sup>High Court Of Cassation and Justice, Second Civil Division, Decision no. 459/2011, available at [www.scj.ro](http://www.scj.ro).

As previously noted, Article 176 regulates the fate of assets discovered after the closure of insolvency proceedings in which all debts have been paid, stating that such assets shall enter, by operation of law, into the patrimony of the shareholders.

By contrast, the current legislation does not contain express provisions regarding the fate of “residual” assets remaining after deregistration in cases where the proceedings were closed without satisfying all creditor claims. In such scenarios, where some creditors have not recovered their registered claims, legal doctrine and judicial practice have been forced to identify solutions through interpretation.

### **The Legal Regime of Assets remaining in the Patrimony of a deregistered Company**

The issue concerning the legal regime applicable to assets that remain unrealised in the patrimony of a company following the closure of insolvency proceedings and its deregistration from the trade register is not expressly regulated under Romanian law. Although the legal provisions governing insolvency—particularly Law No. 85/2014—set out detailed mechanisms for the inventory, appraisal, realisation, and distribution of the debtor’s assets, they do not include provisions regarding the fate of assets which, for various reasons, were not realised during the proceedings and are only “discovered” after the closure and deregistration of the company.

From a legal standpoint, such assets pose significant qualification challenges. Since the deregistered company no longer holds legal personality and its legal capacity ceases by operation of law, there can no longer be a formal legal holder of rights over these assets. This situation generates a fundamental tension between the principle of patrimonial continuity and the procedural reality of the legal entity’s disappearance as a subject of law.

The debate is not merely theoretical—it carries major practical implications. One line of interpretation holds that unrealised assets become ownerless property (*bona vacantia*) and may be taken over by the state under general civil law. According to the Civil Code, assets without an owner, abandoned, or not belonging to any identifiable titleholder may be attributed to the state pursuant to Article 562(2) of the Civil Code, with appropriate application of the provisions on vacant successions.<sup>6</sup> This interpretation is also supported in legal doctrine, where it is asserted that, in the absence of any other allocation mechanism, the state becomes the implicit legal successor to ownerless property, even outside the context of formal succession.

Thus, in the absence of a determined titleholder, such assets are classified as *bona vacantia* and may be taken over by the state, pursuant to the principles of civil law governing ownerless property<sup>7</sup>. According to this view, deregistration is equivalent to the legal subject’s disappearance, and assets that were neither realised nor distributed to creditors or shareholders cannot remain outside the legal circuit. By operation of law, such assets should revert to the state or, as the case may be, to

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<sup>6</sup>Art. 562 (2) Civil Code: “Ownerless or abandoned property shall pass into the ownership of the State or the administrative-territorial unit, in accordance with the law.”

<sup>7</sup>Beleiu (2011) at 101.

administrative-territorial units, through the application of rules governing vacant or abandoned property.

This solution has the advantage of clarity and of preserving the public character of the remaining assets, but may, in practice, lead to inequitable outcomes—particularly in cases where the assets were omitted from the proceedings without fault on the part of the shareholders and where no outstanding claims exist. This solution also appears unjust to creditors whose claims were not satisfied during the insolvency proceedings.

A second perspective is that the remaining assets should be transferred to the former shareholders of the deregistered company. This theory is based on the idea that, in the absence of liabilities and given that the company has ceased to exist, the remaining assets should revert to the initial holders of the share capital, in proportion to their ownership stakes. It starts from the premise that the company's assets, to the extent they are unaffected by outstanding obligations, represent residual value which, by analogy with liquidation and partition, must be returned to the shareholders. Thus, these assets should be transferred, in a universal manner, to the former shareholders of the deregistered company, proportionally to their shareholding. The rationale of this opinion lies in the idea that, in the absence of liabilities and creditors, the remaining assets essentially constitute part of the company's net estate, which should accrue to the shareholders as an expression of their economic right over the outcome of the liquidation.

Article 237(13) of the Romanian Companies Act No. 31/1990, governing the dissolution of commercial companies, provides that the assets remaining in the patrimony of a legal person deregistered from the trade register, under the conditions laid down in paragraphs (8)–(10), shall revert to the shareholders.

These paragraphs provide the following:

- Paragraph (8): If no request for the appointment of a liquidator is filed within three months from the date on which the dissolution decision becomes final, the National Trade Register Office or any interested person may petition the court to deregister the company from the trade register.
- Paragraph (9): The list of companies for which the National Trade Register Office intends to file deregistration claims shall be published in the Electronic Bulletin of the Trade Register at least 60 days in advance and shall be communicated to the Ministry of Public Finance – National Agency for Fiscal Administration. The National Agency for Fiscal Administration shall inform the National Trade Register Office of the companies on the list that have outstanding budgetary obligations—cases in which the appointment of a liquidator is requested—or that are subject to ongoing fiscal audits—cases in which a liquidator must be appointed within 15 days of the conclusion of the audit.
- Paragraph (10): The court ruling ordering deregistration shall be communicated to the company, the Trade Register Office for deregistration, the Ministry of Public Finance, and shall be published, free of charge, in the Electronic Bulletin of the Trade Register.

Dissolution has as a direct and necessary effect the liquidation of the legal entity<sup>8</sup>. Article 260(11) of Law No. 31/1990, regulating the liquidation of commercial companies, reiterates the same legal provisions, stating that the assets remaining in the patrimony of the legal entity deregistered from the trade register shall revert to the shareholders/associates.

Although the Companies Act expressly clarifies the situation of assets discovered after the deregistration of the company, the legislation explicitly limits the beneficiaries of the reacquisition of assets remaining in the patrimony of the deregistered legal entity to the shareholders/associates of a company dissolved and subsequently deregistered under the provisions of the Companies Act.

Even in this context, a key question arises: how can an automatic transfer of ownership occur in the absence of a legally recognised formal mechanism? Although economically and logically appealing, this solution presents a significant legal challenge—the absence of a statutory provision expressly establishing such a transfer. Romanian company law does not expressly regulate post-deregistration partition, and Law No. 31/1990 does not provide a mechanism for the distribution of company assets after the extinction of legal personality.

With regard to this solution, which enjoys explicit statutory recognition, the question arises whether it can also be applied to the situation in which a company is dissolved and liquidated as a result of insolvency proceedings.

A third doctrinal approach argues that the transfer of ownership over residual assets can only occur on the basis of an express legal title obtained by court judgment. In this regard, declaratory actions have been brought, seeking recognition of the transfer of ownership in their favour, based on Article 237(13) of Law No. 31/1990. These actions aim to have the transfer of ownership in favour of the shareholders judicially recognised. However, the admissibility of such claims is contested in both doctrine and case law, as it necessarily involves an analysis of the company's post-procedural assets and liabilities—matters that typically fall within the jurisdiction of the insolvency judge (*judecător-sindic*). These claims are frequently dismissed by the courts, which consider that such a solution requires an assessment of the company's liabilities and any outstanding debts—an analysis that exceeds the competence of the ordinary court and falls exclusively within the remit of the insolvency judge.

In other cases, the review procedure has been used, in an attempt to reopen the insolvency proceedings.

The emergence of these theoretical disputes reflects a normative reality: the absence of a coherent legal framework governing assets remaining after the closure of insolvency proceedings. In the absence of explicit legislative intervention, courts are called upon to rule on a case-by-case basis, without a unified normative foundation. This lack of consistency generates legal uncertainty and conflicting jurisprudence—issues that will be addressed in the following chapter.

In conclusion, the closure of insolvency proceedings and the deregistration of the company, in the absence of express regulation, create a dangerous normative vacuum regarding the regime of undistributed assets. This vacuum leads to contradictory practical outcomes, administrative deadlocks, and legal uncertainty

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<sup>8</sup>Mihai (2016) at 52.

for former shareholders, creditors, and other interested parties. Under the current legal framework, only a clear legislative intervention could provide legal certainty in post-deregistration relations and eliminate the plurality of possible interpretations regarding residual assets.

### **Judicial Practice concerning the Allocation of Assets remaining after Deregistration**

Actions have been brought before the courts seeking declaratory judgments<sup>9</sup> recognizing the automatic transfer of ownership over assets solely by virtue of the company's deregistration, with former shareholders acting as claimants. These actions have proceeded through either contentious or non-contentious procedures, with Article 237(13) of Law No. 31/1990 invoked as the legal basis, which stipulates that the assets remaining in the patrimony of the deregistered legal entity shall revert to the shareholders.

Where the non-contentious procedure was employed, reference was also made to Article 527 of the Romanian Code of Civil Procedure, which provides that such procedure is applicable to claims requiring judicial intervention, without the aim of establishing a contested right against another person.

It was not until September 2021<sup>10</sup>, during a meeting of the presidents of the specialised sections of the High Court of Cassation and Justice and the Courts of Appeal convened to address inconsistencies in judicial practice in professional and insolvency-related disputes—that the issue of jurisdiction and the appropriate contentious or non-contentious procedure for resolving claims filed by shareholders, who seek the transfer of assets into their patrimony by operation of law following company deregistration, was raised.

Following deliberation, it was unanimously decided that jurisdiction *ratione materiae* lies with the tribunal within whose territorial jurisdiction the company had its registered office. Furthermore, by a majority of votes (eight), it was determined that where no persons are identified who might contest the ownership or assert rights over the assets in question, the matter shall be resolved through a non-contentious procedure.

As previously noted, even in cases where a company is deregistered pursuant to Article 237(1) of Law No. 31/1990, there is no consistent judicial practice regarding the mechanism to be used for the automatic transfer of assets identified after deregistration.

In cases where claimants indicated that the company was deregistered under Article 237(1) of Law No. 31/1990, and requested, on the basis of Article 237(13) in conjunction with Article 527 of the Code of Civil Procedure, a judgment confirming the transfer of ownership over two immovable properties, the Cluj Tribunal, by Civil Judgment No. 2279/02.11.2022, held that Article 237(13) does not condition the transfer of ownership upon the issuance of a declaratory judgment concerning this

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<sup>9</sup>Art 35 Code of Civil Procedure – Any person with a legitimate interest may request the court to ascertain the existence or non-existence of a right.

<sup>10</sup><https://innm-lex.ro/intalnirea-presedintilor-sectiilor-specializate-foste-comerciale-ale-iccj-si-curtilor-de-apel-constanta-16-17-septembrie-2021/>

legal fact in the broad sense. Thus, Article 237(13) does not impose a formal requirement for the transfer of ownership from the deregistered company to its shareholders, but rather provides that deregistration, by operation of law, results in the transfer of ownership over the patrimony of the deregistered company to its shareholders.

Accordingly, in this case, the requirement laid down by Article 527 of the Code of Civil Procedure for the admissibility of the application—that judicial intervention be necessary—was not met. The company's ownership right over the immovable assets was extinguished as a result of its deregistration from the trade register, a legal fact that brought the legal entity's existence to an end. Consequently, the company's consent is not required for the extinction of its rights over the properties, and the transfer of ownership to the former shareholders occurs pursuant to Article 237(13) of Law No. 31/1990.

Former shareholders may obtain the registration of ownership rights in the land register, thereby making them enforceable against third parties, by submitting a procedural request for entry of their rights into the land registry<sup>11</sup>. In this context, the claim was dismissed as inadmissible. Upon being approached, the Office for Cadastre and Real Estate Publicity (OCPI) responded by requesting a court decision confirming the new legal status of the property—such a decision not existing, since the application had been dismissed as inadmissible.

An appeal was subsequently lodged against Civil Judgment No. 2279/ 02.11.2022 of the Cluj Tribunal. The Cluj Court of Appeal, relying more on considerations of equity than of strict legality, tactfully overturned the judgment of the lower court. The appellate court held that, although the case involved a transfer *ope legis*, judicial practice—based on the OCPI's refusal to register the right of ownership in the absence of a court ruling—had admitted similar claims brought by petitioners. Referring to the aforementioned Minutes, which had determined that the applicable procedure was non-contentious (thus accepting the admissibility of such claims), the court emphasised the special and restrictive rules governing land registry publicity. These rules require the existence of an authenticated document or a court ruling to substantiate the right being claimed for registration in the land register.

Although the court acknowledged that such Minutes are not legally binding, it stressed that they are publicly available documents, based on which litigants determine their procedural conduct. On the strength of these arguments, the court deemed the claim admissible and found that, following the company's deregistration, ownership over the immovable assets had been transferred to the former shareholders, in accordance with their ownership shares at the date of deregistration.

While the application of the mechanism provided in Article 237(13) of the Companies Act has proven difficult in practice with respect to companies deregistered under Law No. 31/1990, its application to companies deregistered following the closure of insolvency proceedings has proven effectively impossible.

In a case where insolvency proceedings had been closed in 2013, the former shareholders requested, within a non-contentious procedure, that the court establish that a plot of land—unidentified and unrealised during the insolvency—had passed

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<sup>11</sup><https://marianbota.ro/constatarea-dreptului-de-proprietate-asupra-imobilelor-unei-societati-radiate-ocpi-sau-tribunalul/>

*de jure* into their personal patrimony pursuant to Article 237(13) of Law No. 31/1990. In Case No. 5046/63/2023 before the Dolj Tribunal<sup>12</sup>, the claim submitted by the former shareholders was dismissed. The court held that the insolvency proceedings had been closed precisely because no assets had been identified in the debtor's patrimony and, since the company's dissolution and deregistration had not been ordered under the Companies Act (Law No. 31/1990), the provisions of Article 237(13) of that law were not applicable.

Furthermore, the court raised concerns that applying this mechanism would enable the circumvention of creditors' rights in the insolvency proceedings. The former shareholders were effectively attempting to bring into their personal patrimony a property that had not been declared during the insolvency and was not used to satisfy the company's outstanding debts. If the property had been identified during the insolvency proceedings, it would have been sold in order to satisfy creditors' claims.

The claimants appealed this decision, arguing that they had not concealed the property during the insolvency proceedings and that it had been the liquidator's duty to identify it.

Naturally, by Decision No. 109/29.02.2024, the Craiova Court of Appeal dismissed the appeal, holding that it had been the claimants' imperative obligation to submit to the insolvency file all necessary information for the identification of the debtor's assets. Their failure to do so rendered them responsible for the impossibility of realizing the asset and settling the creditors' claims during the insolvency proceedings. The Insolvency Law permits the transfer of assets to shareholders only where the company's liabilities have been fully satisfied.

In a similar case—File No. 1886/95/2022—by Judgment No. 65/05.04.2023, the Gorj Tribunal dismissed a claim seeking a declaration of ownership transfer of a plot of land and a house built thereon under Article 237(13) of Law No. 31/1990. The assets in question belonged to a company deregistered in 2011 following the closure of insolvency proceedings due to lack of assets in the debtor's patrimony. The court further noted that the land and house were not registered in the land book, did not appear in the debtor's accounting records, and had been excluded from creditors' enforcement actions.

On appeal, the claimant argued that the assets had been acquired at auction by the debtor company, but that following the adjudication from another insolvent company, the liquidator had failed to register the adjudication deed in the land registry. The claimant contended that the assets had subsequently been sold to another individual and, for that reason, did not appear in the company's books. However, in 2022, after the company's deregistration, the seller and buyer acknowledged that the issued fiscal invoice was not sufficient to transfer ownership, such that the assets remained the property of the deregistered company.

By Decision No. 470/19.10.2023, the Craiova Court of Appeal dismissed the appeal as unfounded, noting that the assets of a deregistered company cannot be transferred to a shareholder under Law No. 31/1990 if the company was subject to

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<sup>12</sup><https://evenimente.juridice.ro/wp-content/uploads/2024/02/Regimul-juridic-al-bunurilor-ramase-in-patrimoniul-debitoarei.pdf>

the provisions of the Insolvency Law, which contains special rules regarding asset transfer.

These two cases reflect a consistent judicial practice, emphasizing that companies dissolved and liquidated under Law No. 85/2014 (formerly Law No. 85/2006)—the Insolvency Law—are not subject to the dissolution and liquidation rules laid down in Law No. 31/1990 (the Companies Act).

In this context, the only viable solution for clarifying the legal status of assets left unliquidated during insolvency proceedings after deregistration is the remedy of **revision**. Revision is an extraordinary appeal that allows a judgment to be retracted only for reasons strictly and exhaustively provided by law. Article 509 point 5 of the Civil Procedure Code allows revision where, after judgment on the merits has been rendered, new evidence is discovered—either withheld by the opposing party or previously inaccessible due to circumstances beyond the control of the parties.

Through this mechanism, the closure decision of the insolvency proceedings may be overturned and the case remanded to the insolvency judge for the continuation of proceedings if assets belonging to the deregistered legal person are discovered.

In File No. 10711/63/2018, the former court-appointed liquidator filed for revision of the 2013 judgment closing the insolvency proceedings, having been notified by a former shareholder of the existence of an immovable asset in the patrimony of the deregistered debtor that had not been recorded in the land register. The Dolj Tribunal admitted the revision request, annulled the judgment closing the proceedings, and found that all claims had been satisfied during the insolvency, thereby eliminating the need to realise the asset for satisfying creditors. Upon the closure of the bankruptcy proceedings, the insolvency judge ordered the transfer of the asset belonging to the debtor into the exclusive ownership of the shareholder, without deeming it relevant whether the asset had been registered in the land book.

Finally, the case<sup>13</sup> that triggered the present research concerns my role as liquidator of V SRL, in which the insolvency proceedings were closed by Judgment No. 2050/2014 in Case No. 7115/30/2009, because the debtor had no assets in its patrimony. A revision request was filed in February 2024 by the creditor, the Public Finance Administration, invoking the discovery of new documents following notification by the Măureni Town Hall, where the debtor had its registered office. This led to the opening of Case No. 761/30/2024 before the Timiș Tribunal. It is important to note that the Măureni Town Hall became aware of the matter after the administrator filed a declaratory action seeking the court's confirmation of ownership transfer over certain land in favor of the former shareholder under Article 237(13) of Law No. 31/1990.

In my capacity as liquidator, I filed written notes in support of the revision, arguing that the sole shareholder and administrator, who had been notified during the proceedings, provided a handwritten declaration stating that the company held no assets. I contended that this omission was intentional and that the administrator had failed to keep proper accounting records, thereby concealing the existence of

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<sup>13</sup>Case No. 761/30/2024, in which Civil Judgment No. 427 of 09.05.2024 was delivered at first instance by the Timiș Tribunal, and Civil Decision No. 101/R of 17.09.2024 was rendered on appeal by the Timișoara Court of Appeal, unpublished.

unregistered immovable property acquired by the company as early as 2007, which prejudiced the creditors.

The administrator defended himself by claiming that he had not withheld documents, as they did not exist at the time. Only in 2019, following the implementation of a systematic cadastre project, were land books created for the plots in question, making it impossible to present them between 2009 and 2014, the period during which the insolvency proceedings were ongoing. He further argued that the company's accounting, handed over to the liquidator, contained evidence of tax payments related to the land. However, it was shown that these payments had been made by a natural person and were not recorded in the debtor's accounts.

The first-instance court, the *Timiș Tribunal*, dismissed the revision request, finding that the land books had been created only in 2019, that such public records cannot be withheld by a party, as they are accessible to all, and that more than four years had passed from the time the records became available until the revision was requested, thus exceeding the one-month statutory deadline<sup>14</sup>, which runs from the moment the new evidence is discovered.

Moreover, the trial court found that although the land had been acquired by the debtor as early as 2004, the administrator's 2010 statement that the company held no assets did not amount to a ground for revision. The court held that the admissibility conditions for revision were not met and dismissed the request as inadmissible.

In the appeal, it was argued that the assets had been acquired in 2004, the insolvency procedure took place between 2009 and 2014, the assets were not recorded in the accounting books, and the shareholders' statement denying the existence of assets was false. The obligation to disclose all debtor-owned assets was not limited to those registered in the land book. The land books created in 2019 were based on notarial deeds from 2004—documents allegedly withheld by the administrator—and neither the liquidator nor the creditors could be expected to check land books created five years after the company's deregistration.

The *Timișoara Court of Appeal* dismissed the appeal, holding that the appellant had access to the land book information as early as 2019, that the one-month term had not been respected, and that it could not be established that the documents could not have been presented due to their being withheld by the opposing party. The court stated that "the debtor's failure to disclose ownership of the land during the proceedings does not amount to the concealment of documents."

In addition to the fact that creditors were harmed by this solution, having failed to recover their claims during the insolvency proceedings, the case raises several critical questions:

- Is the legal presumption of publicity of rights registered in the land book absolute, given that inquiries to the Cadastre and Land Registration Office are not free of charge and, more importantly, can only be conducted using the land book number, not the owner's name? In this case, it was practically

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<sup>14</sup>The time limit for filing a revision request based on newly discovered documents is one month, running from the date on which the documents were effectively discovered. This follows from the provisions of Article 326 para. (1) in conjunction with Article 324 para. (1)(a) of the Romanian Code of Civil Procedure.

impossible to access the land registry to identify what assets the company held.

- Can the one-month statutory deadline for revision be linked to the legal presumption of publicity applicable from the date the land books were established?

In conclusion, in this case, the shareholder's declaratory action claiming ownership under Law No. 31/1990 was rejected; the revision mechanism failed to clarify the legal status of the assets within the insolvency procedure. The only remaining option is for each administrative-territorial unit where the land is located to file separate actions under Article 562(2) of the Civil Code, asserting that the assets are vacant, ownerless, and not belonging to any determined titleholder, thus allowing the State to acquire them under the rules of common law.

## Conclusions

Theoretical and practical analysis of the legal regime applicable to assets remaining in the patrimony of a company deregistered following the closure of insolvency or voluntary liquidation proceedings reveals a significant gap in Romanian positive law. Judicial practice has encountered interpretative difficulties, oscillating between the inadmissibility of implicit transfers, the judicial recognition of ownership rights where deregistration occurred under Law No. 31/1990, and the revision of judgments closing insolvency proceedings in cases where companies had previously undergone insolvency. The failure of these mechanisms has paved the way for the application of the legal regime governing vacant assets by the state.

To ensure a uniform application of legal provisions and to prevent both abuse and inconsistent outcomes, we propose the following *de lege ferenda* recommendations:

1. The introduction, in both Law No. 85/2014 and Law No. 31/1990, of explicit provisions governing the legal destination of assets remaining after the closure of proceedings and the company's deregistration, together with a clear indication of the procedure to be followed.
2. The express regulation of a post-deregistration partition mechanism, providing for a simplified procedure—either before the court or an administrative authority—through which former shareholders may request the allocation of assets, in the absence of any remaining liabilities.
3. The imposition of sanctions on shareholders who conceal assets during liquidation proceedings in fraud of creditors and subsequently seek the transfer of those assets into their personal patrimony, although such assets should have been used to settle the company's debts.

In the absence of such legislative interventions, the risk remains that courts will apply legal provisions inconsistently, thereby undermining the predictability and efficiency of the liquidation process. In the current economic context—marked by frequent company deregistrations and the recurrent failure to realise all company

assets—a clear regulation of the fate of residual assets is essential to achieving a fair and effective insolvency framework.

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