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Creditor Information in the Face of the Dematerialisation of Collective Insolvency Proceedings under Moroccan Law

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ABSTRACT

The dematerialisation of collective insolvency proceedings constitutes a major development in Moroccan law governing businesses in financial difficulty, the significance of which extends beyond the mere modernisation of judicial formalities. Enshrined in the reform of Book V of the Commercial Code, this transformation nevertheless raises questions concerning its effective implementation and its relationship with the procedural safeguards afforded to creditors. The present study examines the implications of this development for the insolvency administrator's duties to inform, the conditions governing the identification of creditors and the enforceability of preclusion. It highlights the difficulties involved in assessing the notion of a known creditor in an environment characterised by the proliferation of accessible digital information. The analysis also reveals differences in the mechanisms of protection, particularly in light of the safeguards granted to the tax administration by the 2026 Finance Law. Through a legal and comparative approach, particularly with regard to the Belgian experience, the study emphasises the need to distinguish the technical reliability of electronic transmissions from their procedural regularity. It accordingly advocates an adaptation of the Moroccan framework based on a reasonable assessment of the diligence required of the insolvency administrator and on precise regulation of the safeguards relating to identification, notification and evidence, in order to reconcile the effectiveness of collective insolvency proceedings with the effective protection of creditors' rights.

Keywords: Dematerialisation of collective insolvency proceedings, Creditor information, Insolvency administrator, Declaration of claims, Preclusion.

1. INTRODUCTION

The digital transformation of justice is no longer confined to modernising the means of communication between courts and litigants but is progressively affecting the very conditions under which procedural acts are performed and produce their legal effects. This development is of particular significance in matters concerning businesses in financial difficulty, insofar as collective insolvency proceedings depend on a continuous flow of information between the court, the insolvency administrator, the debtor and the creditors, the regularity of which directly determines the exercise of their rights. Indeed, the opening of collective insolvency proceedings does not merely entail a change in the company's legal position, since it also requires creditors to comply with formalities and time limits whose non-observance may definitively jeopardise their claims, thereby giving information mechanisms decisive importance in protecting their interests.

In Morocco, this transformation received legislative recognition with the adoption of Law No. 73-17 reforming Book V of the Commercial Code, which expressly provides for the electronic performance of formalities relating to proceedings concerning businesses in financial difficulty. However, several years after this recognition, the full implementation of this approach remains surrounded by uncertainty, even as the legislature has continued to modernise the national procedural framework, particularly through Law No. 58.25 on civil procedure. This discrepancy between the initial ambition of dematerialisation and the condition for its effective implementation raises the question of whether the existing legal framework can accommodate the digital transformation of collective insolvency proceedings without undermining the safeguards traditionally afforded to the parties concerned.

This question arises with particular urgency in relation to the declaration of claims, whose legal regime rests on a close connection between the insolvency administrator's duties to inform, the time limits imposed on creditors and the consequences attached to non-compliance with those limits. Indeed, while Article 719 of the Commercial Code requires the insolvency administrator, in particular, to notify creditors known to him, Articles 720 and 723 govern declaration periods and the mechanisms which, in certain circumstances, make it possible to avert the consequences of preclusion. Yet dematerialisation does not merely alter the media used to perform these formalities, since it also transforms the conditions under which the existence of a claim may be identified and the regularity of the information transmitted may be established. Accordingly, the increasing availability of electronic accounting documents, dematerialised contracts and registers accessible online calls for a re-examination of the notion of a creditor known to the insolvency administrator, while the possible use of electronic means of notification raises questions concerning proof of their performance and their effects on procedural time limits.

The significance of this inquiry is further reinforced by recent legislative developments, particularly the amendment of Article 150 of the General Tax Code by the Finance Law for 2026, which establishes an obligation to inform the tax administration electronically and attaches a specific safeguard against preclusion to non-compliance with that obligation. This development reveals differences between the mechanisms for protecting creditors, the justification for which deserves examination in light of the overall structure of collective insolvency proceedings. It also invites a comparison between Moroccan solutions and foreign experience, particularly that of Belgium, where the mechanisms for informing creditors and declaring claims have undergone procedural adjustments that make it possible to assess the safeguards necessary to secure them.

The question therefore arises as to the extent to which the dematerialisation of information in collective insolvency proceedings can strengthen creditor protection without undermining the safeguards relating to creditors' identification, their receipt of information and the enforceability of preclusion against them.

The issue therefore lies not solely in the possibility of substituting electronic methods for traditional formalities, but in the search for a balance between the effectiveness of collective insolvency proceedings and the safeguards which a creditor must enjoy in order to exercise his rights effectively.

In order to address this issue, the first part will examine the scope of the legislative recognition of dematerialisation and the uncertainties it raises concerning creditor information, particularly in relation to the diligence expected of the insolvency administrator (I), before the second part analyses the implications of the new forms of electronic information for protection against preclusion and the prospects for harmonising procedural safeguards in light of comparative law (II).

2. THE DEMATERIALISATION OF CREDITOR INFORMATION BETWEEN LEGISLATIVE RECOGNITION AND PROCEDURAL UNCERTAINTY

The dematerialisation of proceedings concerning businesses in financial difficulty is one of the approaches enshrined in the reform of Book V of the Moroccan Commercial Code, insofar as the legislature has expressly provided for the use of electronic means in the performance of formalities relating to these proceedings. However, this recognition raises several questions concerning its legal scope and its relationship with the specific rules governing creditor information, which directly determine the exercise of creditors' rights within collective insolvency proceedings. Indeed, although the use of digital technologies may facilitate the circulation of information and enhance the traceability of acts, their incorporation into a procedural framework characterised by strict formalities and mandatory time limits requires the identification of the legal safeguards which must accompany this transformation. Accordingly, the analysis will first address the normative scope of the obligation to dematerialise and its interaction with the provisions governing creditor information (A), before considering the implications of digital traceability for identifying creditors and assessing the diligence expected of the insolvency administrator (B).

2.1 The Obligation to Dematerialise in Relation to Creditors' Procedural Safeguards

The adoption of Law No. 73-17 reforming Book V of the Commercial Code introduced, alongside mechanisms for preventing and addressing business difficulties, a provision requiring the use of electronic means for the performance of procedural formalities. Indeed, the final paragraph of Article 545 provides that formalities relating to proceedings concerning businesses in financial difficulty must be carried out electronically in accordance with the arrangements laid down by regulation. Far from constituting a mere possibility left to the discretion of the parties or the bodies involved in the proceedings, this requirement reflects an ambition to integrate dematerialisation into the operation of commercial justice, while making the practical conditions of its application subject to specific regulation. [1]

The mandatory wording of Article 545 must nevertheless be distinguished from the conditions under which acts performed electronically may produce their procedural effects. While the choice of the word “must” precludes reducing dematerialisation to a general option, the reference to regulatory arrangements conversely prevents one from inferring from this provision alone that any electronic transmission method could immediately replace the formalities prescribed by Book V. Determining who is authorised to act, the conditions for identifying recipients, proof of transmission and receipt, and guarantees of integrity is particularly important where the act performed determines the exercise of a right or triggers a time limit whose non-observance is sanctioned.

The implementation of this approach has been the subject of regulatory work announced by the public authorities. In his response before the House of Representatives on 1 February 2021, the Head of Government thus referred to the preparation of an implementing decree intended to allow the entirely electronic management of proceedings for addressing business difficulties. [2] However, the regulatory text provided for by Article 545 has not yet been adopted, leaving the specific arrangements for the electronic performance of formalities relating to proceedings concerning businesses in financial difficulty undetermined.

This prospect is reinforced by the new Law No. 58.25 on civil procedure, which is due to enter into force shortly and which provides, in Articles 623 et seq., for the electronic performance of judicial acts, as we shall see later in this analysis. [3]

Indeed, the uncertainties surrounding this interaction are particularly acute in the field of declarations of claims, which constitutes a decisive stage in the determination of the company's liabilities. In reality, such a declaration cannot be reduced to an operation involving the transmission of documents, since it contributes to determining which creditors are entitled to assert their rights within the proceedings. [4] Some authors emphasise, in this respect, the importance of the formal requirements governing declarations and the consequences of failing to comply with them, which requires dematerialisation to be assessed not only in terms of its technical advantages but also in terms of its capacity to preserve the safeguards to which the admission of claims remains subject. [5]

In this regard, Article 719 of the Commercial Code provides that creditors whose claims arose before the judgment opening the proceedings, with the exception of employees, must submit their declarations to the insolvency administrator, while requiring the latter to notify creditors known to him as well as those appearing on the list supplied by the debtor. The same article also governs the provision of information to creditors holding published security interests or finance lease agreements that have been published, revealing that the legislature did not intend to subject all creditors indiscriminately to a duty of vigilance based exclusively on

publication of the judgment opening the proceedings. [6] By distinguishing several categories of creditors according to the arrangements for informing them, the statutory framework thus recognises that the effectiveness of a declaration may depend on the conditions under which the creditor is informed of the existence of the proceedings. [7]

This arrangement is particularly significant in light of the time limits established by Article 720, under which the two-month period for declaring claims begins on the date of the notice for creditors known to the insolvency administrator, those appearing on the debtor's list, and holders of published security interests or finance lease agreements that have been published. For other creditors, this period begins upon publication of the judgment opening the proceedings in the Official Bulletin. The provision of information to a creditor therefore has direct effects on the period available to preserve his rights. This protection is reinforced by Article 723, which, in addition to relief from preclusion, provides that preclusion cannot be enforced against creditors who have not received the notice required by law. [8]

The possible substitution of an electronic medium for paper requires, in this respect, a distinction between the technical possibility of transmitting a notice and the proper performance of the duty to inform prescribed by the Commercial Code. Although digital transmission may facilitate the preservation of data and the reconstruction of their chronology, it must make it possible to identify the sender and the recipient, determine the content communicated and establish the legally relevant date, failing which proof of dispatch could be confused with proof that information was validly brought to the creditor's attention. [9]

In this regard, an examination of the provisions of Book V reveals that legislature has retained several formal mechanisms which must be reconciled with the dematerialisation of the proceedings. Thus, Article 719 provides for the insolvency administrator to maintain a special register, numbered and initialled by the supervisory judge, in which creditors' declarations are recorded in chronological order, while Article 726 requires a registered letter with acknowledgement of receipt when the insolvency administrator disputes a declared claim. Similarly, Article 547 provides, in the context of internal prevention, for the head of the business to be informed by registered letter with acknowledgement of receipt where certain circumstances are likely to jeopardise the continuity of its operations. These provisions illustrate the importance which the legislature continues to attach to safeguards relating to the identification of acts, their chronology and proof of their communication, irrespective of the physical technique used to perform them. [10]

These formalities are not necessarily incompatible with the use of electronic means, provided that an appropriate method can fulfil the legal functions assigned to them by the legislature. Thus, a sufficiently secure electronic register could preserve the chronological order of declarations, while a qualified transmission mechanism could establish the conditions under which a notice is sent and received, without the technical effectiveness of these instruments nevertheless being sufficient to authorise their procedural use in the absence of the arrangements required by law.

Law No. 43-20 on trust services for electronic transactions provides a useful legal framework in this respect, insofar as it defines a simple electronic registered delivery service by its capacity to transmit data while providing evidence of their dispatch and receipt, and subjects a qualified service to additional safeguards concerning the identification of the parties, the integrity of the data and the time-stamping of operations. Data transmitted through such a qualified service accordingly benefit from statutory presumptions relating to their integrity, dispatch and receipt, but these evidentiary effects do not, in themselves, determine the conditions under which a notice sent by the insolvency administrator satisfies the specific requirements of Book V. [11]

The interaction between Articles 545 and 719 of the Commercial Code thus raises a more precise question, namely whether sending a notice to a professional email address can satisfy the insolvency administrator's duty to inform when the recipient's identity and the conditions of receipt have not been established in accordance with the legally applicable requirements. The answer therefore depends less on the technical reliability of the method used alone than on its capacity to produce the procedural effects attached to the notice, particularly where the notice determines the starting point of the period for declaring claims.

Such a requirement accords with the analysis of certain authors concerning transparency of information in Moroccan law governing businesses in financial difficulty, according to which the usefulness of information depends not only on its availability but also on its reliability and the conditions enabling its recipient to make effective use of it. This approach is of particular significance in proceedings in which the court, the insolvency administrator, the head of the business and the creditors do not have access to the same information, even though inaction by one of them may have consequences for the legal position of the others which are difficult to reverse. [12]

The significance of Article 545 must therefore be sought in the establishment of a method for performing formalities capable of preserving their legal functions, rather than in the indiscriminate substitution of technical methods for existing safeguards. Such an interpretation makes it possible to reconcile the ambition of procedural modernisation with creditor security, while highlighting the need for a precise relationship between general electronic trust mechanisms and the specific rules governing declarations, notices and preclusion.

This analysis nevertheless leaves a second difficulty unresolved, since digital technology alters not only the conditions under which an already identified creditor must be notified, but also the means on the basis of which the insolvency administrator may be deemed to know of that creditor's existence.

2.2 The Digital Traceability of Claims and the Redefinition of the Diligence Expected of the Insolvency Administrator

The expansion of dematerialised accounting documents, electronic contracts and registers accessible online is altering the conditions under which the bodies involved in collective insolvency proceedings can identify holders of pre-existing claims. This development raises a particular difficulty in relation to Article 719 of the Commercial Code, which requires the insolvency administrator to notify creditors known to him without precisely defining the circumstances in which such knowledge must be regarded as established. The issue, therefore, is not to attribute to technology an autonomous power of legal classification, but to assess the extent to which reasonably available digital information must be taken into account in determining the diligence expected of the insolvency administrator.

This question is grounded in the interaction between Articles 719 and 722 of the Commercial Code, the former establishing the obligation to inform creditors known to the insolvency administrator, while the latter requires the head of the business to provide the administrator with a certified list of creditors within eight days of the judgment opening the proceedings, except where the proceedings were opened at the debtor's request. However, the fact that the legislature has expressly distinguished creditors known to the insolvency administrator from those appearing on the list provided by the debtor demonstrates that the identification of persons who must be notified cannot depend exclusively on information communicated by the head of the business. In our view, a contrary interpretation would deprive this distinction of a substantial part of its effect, since it would allow the insolvency administrator systematically to confine his duty to inform to the persons named on a list whose completeness may be compromised precisely by the company's economic and financial circumstances.

This conception finds support in Moroccan commercial case law. In a judgment of 14 July 2021, the Commercial Court of Appeal of Marrakech held, in the circumstances of the case, that the presence of a finance lease agreement among the company's documents made it possible to regard the creditor as known to the insolvency administrator, given the latter's ability, in the exercise of his duties, to consult the accounting and legal documents held by the company or its managers. The court accordingly ruled that preclusion could not be enforced against the creditor who had not been personally notified, even though his name did not appear on the list supplied by the debtor. [13]

The question arises with even greater urgency where the creditor's existence emerges from digital information held by the company, including accounting entries, dematerialised invoices, electronic contracts or professional correspondence. Unlike holders of published security interests, who benefit from individual notice by virtue of the publication of their security, creditors identifiable from these documents may also benefit from such notice where they must be regarded as known to the insolvency administrator. It remains necessary to determine in which circumstances the accessibility of this information is sufficient to establish such knowledge, without systematically equating the availability of data with legally established knowledge.

Accordingly, the most coherent solution would consist in adopting an assessment based on whether the creditor was reasonably identifiable, taking account of the nature of the documents available, their effective accessibility and the diligence normally expected of the insolvency administrator in the performance of his duties. Such an approach would avoid two equally questionable interpretations: the first would confine knowledge to information actually consulted, at the risk of encouraging inaction on the part of the insolvency administrator, while the second would attribute to him general knowledge of all claims potentially discoverable through electronic searches, even where such searches would require disproportionate investigations. Digital traceability could thus become a factor in assessing the diligence exercised, without constituting an irrebuttable presumption of knowledge.

This interpretation highlights the need to specify more precisely the persons covered by the insolvency administrator's duty of notification. [14] However, digital developments make it possible to extend this reflection by shifting the analysis towards the legal criteria for identifying

a creditor and the elements capable of establishing proof of that identification. Indeed, where information is retained in a digital environment, it becomes possible, subject to certain technical and legal conditions, to trace the consultation and processing operations to which it has been subject, which could help determine whether the insolvency administrator actually had the means necessary to identify the creditor concerned. Such a possibility cannot, however, be presented as an obligation currently enshrined in Book V, but rather as a prospect for the development of the assessment of professional diligence.

The distinctive contribution of digital traceability would therefore lie in the possibility of examining, more objectively, the information to which the insolvency administrator could have had access and the diligence he actually exercised, without transforming his duty to notify into an unlimited duty of investigation. The protection of known creditors could thereby be strengthened, provided that the assessment of such knowledge remains proportionate to the means genuinely available and to the requirements of speed in the proceedings, which shifts the analysis towards the legal consequences of a failure to inform and the enforceability of preclusion.

3. PROTECTION AGAINST PRECLUSION IN THE FACE OF NEW FORMS OF ELECTRONIC INFORMATION

The identification of creditors and the assessment of the insolvency administrator's diligence constitute only one aspect of their protection, since this protection also depends on the legal consequences attached to information communicated or omitted. Yet the specific safeguards afforded to certain categories of creditors, particularly the tax administration, raise the question of the coherence of the protective framework in the face of new requirements for electronic information. Accordingly, it is necessary to examine the differentiation of procedural safeguards among creditors (A), before considering the conditions for their harmonisation within dematerialised collective insolvency proceedings (B).

3.1 Differentiated Creditor Protection in the Face of the Requirements of Electronic Information

The adoption of Finance Law No. 50-25 for the 2026 financial year introduced a significant development in the regulation of duties to inform concerning companies subject to collective insolvency proceedings, by supplementing Article 150 of the General Tax Code in order to strengthen the mechanisms through which the tax administration is informed of the opening of such proceedings. Indeed, as amended, paragraph 3 of that article requires any company seeking the opening of safeguard, judicial reorganisation or judicial liquidation proceedings to submit an electronic declaration to the tax administration before filing its application with the court registry. The legislature also provides that, where judicial reorganisation or liquidation proceedings are not opened at the initiative of the company, the latter must submit an electronic declaration within thirty days following publication of the judgment opening the proceedings in the Official Bulletin, failure to comply with these formalities rendering preclusion in respect of rights relating to the period preceding the opening of the proceedings unenforceable against the tax administration. [15]

Admittedly, this provision cannot be presented as an entirely new recognition of the protection of tax creditors against preclusion, since, even before the 2026 reform, Article 150 of the General Tax Code already imposed an obligation to make a prior declaration to the tax assessment service where the company applied for the opening of judicial reorganisation or liquidation proceedings, with an identical sanction in the event of non-compliance. The innovation therefore lies principally in extending the mechanism to safeguard proceedings, expressly providing for its performance by electronic means and taking account of proceedings opened at the initiative of persons other than the head of the business. This development reflects a desire to reinforce the continuity of tax-related information throughout the commencement of collective insolvency proceedings, without fundamentally altering the protective rationale underlying the previous framework. [16]

A comparison between this mechanism and Article 545 of the Commercial Code is particularly revealing, since it brings together a general requirement for dematerialisation whose specific implementation remains to be defined and a targeted electronic obligation whose obligor, recipient, deadline and sanction are directly determined by the tax legislation. These are not, however, interchangeable methods of performing the same formality, since the declaration prescribed by Article 150 of the General Tax Code is submitted by the company to the tax administration, whereas the notice under Article 719 of the Commercial Code is an obligation incumbent upon the insolvency administrator towards specified categories of creditors.

This distinction extends to the conditions under which preclusion is unenforceable. Whereas the Commercial Code protects a creditor who has not received the notice legally required from the insolvency administrator, the tax framework links this protection to the company's failure to make a declaration to the tax administration. The latter thus benefits

from a specific safeguard founded on a duty to inform distinct from that incumbent upon the insolvency administrator. [17]

This particular feature raises the question of the justification for differentiated protection among creditors, given that a lack of information concerning the opening of proceedings may jeopardise the exercise of the tax administration's rights just as it may jeopardise those of other holders of pre-existing claims. It would nevertheless be excessive to regard this difference as necessarily constituting an unjustified breach of equality among creditors, since tax claims have specific characteristics connected with the way in which they arise, are established and are recovered through the functions entrusted to the administration. Conversely, recognising these particular features does not remove the need to examine the proportionality of the mechanism adopted, particularly where preclusion may become unenforceable solely because an electronic formality has not been performed, while other creditors must establish the specific conditions enabling them to avert or obtain relief from the preclusion incurred.

The scope of these safeguards must nevertheless be distinguished from the diligence necessary to preserve public claims. Some commentators emphasise the continued duty to declare claims and the vigilance required during the proceedings, reporting a restrictive interpretation, in certain case law, of the unenforceability provided for by Article 150-III of the General Tax Code. [18]

The French experience provides a particularly interesting comparative perspective in this respect, since the French Commercial Code also provides for the specific treatment of tax claims within collective insolvency proceedings, without generally exempting them from declaration requirements. Indeed, Article L. 622-24 authorises, in particular, the provisional admission of claims of the Public Treasury which have not yet been established by an enforceable instrument, while regulating the conditions under which they must be definitively established, failing which preclusion applies. The French regime thus recognises the particular constraints which the tax administration may face in finally determining the amount of its claims, while maintaining their declaration within the common procedural framework, whose sanctions remain applicable subject to the adjustments expressly provided for by the legislature. [19]

This approach was recently clarified by the French Court of Cassation in a judgment of 5 February 2025 concerning the definitive establishment of a tax claim after the opening of collective insolvency proceedings. The Court held that entitlement to the extended period provided for by Article L. 622-24 was not conditional upon a tax audit or reassessment procedure having been initiated before the judgment opening the proceedings, so that the administration could also benefit from this extension where the audit operations had been undertaken subsequently. In his commentary on this decision, Gilles DEDEURWAERDER emphasises that this adjustment responds to the need to preserve the tax administration's powers of audit where the claim cannot be definitively established within the ordinary time limits of the collective insolvency proceedings. [20]

The significance of this case law therefore lies in the distinction between an adjustment to the timetable for definitively establishing public claims and a general exemption from declaration requirements, which French law does not recognise. The comparison with Morocco cannot, therefore, be based on the identity of the mechanisms, since Moroccan law also makes the unenforceability of preclusion depend on the company's failure to fulfil a duty to inform the administration; rather, it sheds light on the different techniques through which two legal systems seek to take account of the tax creditor's particular position while preserving the collective treatment of liabilities.

The doctrinal significance of the 2026 tax reform thus extends beyond its operational contribution, insofar as it demonstrates that the legislature may attach to an electronic duty to inform a precise consequence for the enforceability of preclusion, without this solution necessarily having to be extended mechanically to every category of creditor. Comparative law instead suggests distinguishing matters relating to the determination and declaration of public claims from those relating to the creditor's prior receipt of information, with a view to establishing a common foundation of safeguards concerning transmission and evidence which respects particular situations and the requirements of stability in the determination of liabilities.

3.2 Towards the Harmonisation of Information and Evidentiary Safeguards in Dematerialised Collective Insolvency Proceedings

The diversity of creditor protection regimes calls for the identification of the common safeguards necessary to secure the provision of electronic information to creditors. This involves determining the conditions governing the regularity of notices, proof of their proper issuance and the date on which they trigger the period for declaring claims, as well as the consequences of a technical failure preventing a creditor from acting. In this respect, foreign experience helps to clarify these requirements and their relationship with the formalities specific to Moroccan collective insolvency proceedings.

Belgian law sheds light on these safeguards through the organisation of communications and filings in the Central Solvency Register, commonly known as RegSol. Article XX.9 of the Code of Economic Law provides that the notifications, communications and filings to which it refers are made through the register. [21] It specifies that the entry of a notice constitutes notification or communication provided that it is accompanied by an electronic message addressed to the person concerned, while the date of the operation is recorded by the register. [22] The value of this arrangement lies in the connection between the registration of the act, the alert sent to its recipient and the determination of its date. Dematerialisation is thus accompanied by rules specifying the conditions under which transmission produces its procedural effects, beyond the mere technical availability of the information.

This arrangement is accompanied by alternative procedures designed to preserve access to the proceedings. Article XX.8 of the Code of Economic Law notably authorises natural persons not assisted by counsel and legal persons whose registered office is situated abroad to file acts in paper form. In matters concerning the declaration of claims, the Code allows natural persons and legal persons established abroad, where they are not represented by a third party providing judicial assistance professionally, to deliver their declaration to the bankruptcy trustee by registered letter with acknowledgement of receipt or against a receipt. The bankruptcy trustee then arranges for its entry into the register. [23] The value of this solution lies in maintaining a centralised electronic case file without requiring all creditors personally to submit their filings through the platform.

This approach is further developed by the Belgian Royal Decree of 23 March 2017 governing the operation of the register, Articles 4 to 6 of which provide for safeguards relating to the identification of users, the logging of operations and the recording of technical malfunctions. The framework notably allows certain formalities to be performed at the court registry or before the bankruptcy trustee when the register is unavailable, while providing for their subsequent incorporation into the electronic system and recognising that records of technical failures may have evidentiary value capable of establishing a case of force majeure. This arrangement is particularly relevant to collective insolvency proceedings, since computer incidents cannot be disregarded in law where their occurrence may prevent a creditor from declaring a claim within a mandatory time limit. [24]

Under Moroccan law, these safeguards find support in Law No. 43-20 on trust services for electronic transactions. The presumptions attached to qualified electronic registered delivery services, as provided for in Article 28, concern in particular the integrity of the data, their dispatch by an identified sender, their receipt by an identified recipient, and the accuracy of the dates and times of dispatch and receipt. [25] They could help secure proof of the notice issued by the insolvency administrator, subject to their relationship with the specific conditions governing the proper issuance of that notice and the rules determining the starting point of the period for declaring claims.

The new Law No. 58.25 on civil procedures will provide a second point of support after its entry into force. Article 639 provides for the extension of the statutory time limit where access to the electronic platform is impossible on the final day of that period, until the first day following the resumption of its normal operation. The competent administration must publish a notice recording the outage and its duration. This safeguard could help protect a creditor prevented from acting by a technical failure, subject to its interaction with the specific rules of Book V. [26]

From this perspective, implementation of Article 545 would benefit from specific regulation that would not merely designate a platform but would establish the legal requirements attached to each sensitive operation, particularly the identification of the creditor and the insolvency administrator, proof of the dispatch and receipt of the notice, the integrity of documents submitted with declarations and the retention of a record of operations which can be relied upon against the parties concerned. Alternative filing arrangements in cases of inability to obtain access or of a documented outage should be defined with sufficient precision to prevent a failure of the system from being treated as inaction attributable to the creditor.

Such harmonisation would not require the removal of adjustments specific to tax claims or to holders of published security interests, but rather the subjection of electronic formalities affecting creditors' rights to a common core of safeguards whose observance could be verified. The expected contribution of legally regulated dematerialisation would then lie in a coherent twofold requirement: the traceability of documents should make it possible to assess more objectively the diligence exercised in identifying creditors reasonably known to the insolvency administrator, while the traceability of notifications should make it possible to determine the conditions under which time limits become enforceable against them. It is through this interaction between verifiable knowledge of the creditor and legally sufficient proof that the creditor has been informed, rather than through the mere generalisation of digital media, that procedural protection could be developed which reconciles the effectiveness of

collective insolvency proceedings with the security of the rights involved.

CONCLUSION

The analysis of the dematerialisation of collective insolvency proceedings reveals that the modernisation of judicial formalities cannot be assessed independently of the procedural safeguards enjoyed by creditors, insofar as information directly determines the exercise of their rights and may determine whether preclusion is enforceable against them. Indeed, although the Moroccan legislature enshrined the use of electronic means as early as the reform of Book V of the Commercial Code, this recognition does not, in itself, suffice to ensure the effectiveness of information mechanisms, whose regularity remains dependent on sufficiently precise legal and technical conditions. Recent legislative developments, particularly those relating to civil procedure and the provision of information to the tax administration, nevertheless illustrate the progressive integration of digital processes into the operation of procedural mechanisms, while revealing the need for better coordination between the various frameworks.

From this perspective, the study has shown that dematerialisation is capable of transforming both the conditions for identifying creditors and the arrangements for proving that they have been informed. However, this development cannot justify equating all electronically accessible information with knowledge legally attributable to the insolvency administrator or considering that digital transmission necessarily suffices to satisfy statutory notification requirements. We therefore consider that the assessment of the insolvency administrator's diligence should rest on whether the creditor was reasonably identifiable, while the enforceability of electronic formalities should be subject to verifiable safeguards concerning the identification of the recipient, the integrity of the information and proof of its receipt.

The lessons of comparative law, particularly the Belgian experience of electronic management of insolvency proceedings, make it possible to envisage an adaptation of the Moroccan framework based on specific regulatory provisions, clarifying the conditions for performing electronic formalities, their evidentiary effects and the protective mechanisms applicable in the event of technical failure. Such a development would make it possible to move beyond a predominantly instrumental conception of dematerialisation and transform it into a genuine factor of legal certainty, by reconciling the speed necessary to address business difficulties with the effective preservation of creditors' rights.

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[9] Boris BARRAUD, “Proof of the Electronic Legal Act: A New Illustration of the Law's Inconsistency in the Face of Technological Modernity”, Revue de la recherche juridique – Droit prospectif, No. 144, October 2012, pp. 1791–1805, particularly p. 9.

[10] Moroccan Commercial Code, Articles 547, 719 and 726, as amended by Law No. 73-17.

[11] Dahir No. 1-20-100 of 31 December 2020 promulgating Law No. 43-20 on trust services for electronic transactions, Official Bulletin No. 6970 of 18 March 2021, p. 535 et seq., particularly pp. 538–539, Articles 27 and 28.

[12] EL OUARDI Mohamed, "Transparency of Information in the Law Governing Businesses in Financial Difficulty: Between the Imperatives of Prevention and the Requirements of Protection", International Journal of Research in Economics and Finance, Vol. 3, No. 6-1, 2026, pp. 189–204, particularly pp. 190–191, DOI: 10.71420/ijref.v3i6-1.326.

[13] Commercial Court of Appeal of Marrakech, Judgment No. 1282 of 14 July 2021, Case No. 1291/8304/2020.

[14] ECHCHARYF Hamid and CHEDDAD Sofia, "Issues Relating to the Determination of Liabilities: Between Declaration Requirements and Legal and Judicial Realities", op. cit., p. 356.

[15] Dahir No. 1-25-67 of 10 December 2025 promulgating Finance Law No. 50-25 for the 2026 financial year, Article 7 amending Article 150-III of the General Tax Code, Official Bulletin No. 7465 bis of 16 December 2025, p. 3837.

[16] General Directorate of Taxes, General Tax Code, 2025 edition, Article 150-III, p. 277; 2026 edition, same article, p. 282.

[17] Moroccan Commercial Code, Article 723, as amended by Law No. 73-17, Official Bulletin No. 6732 of 6 December 2018, p. 1899; General Directorate of Taxes, General Tax Code, 2026 edition, Article 150-III, p. 282.

[18] Yahya KASSIMI, "The Obligations of the Tax Collector During Judicial Reorganisation and Liquidation Proceedings: An Attempt at Synthesis in Light of Law No. 73-17", study published on the website of the Kingdom's General Treasury, particularly p. 6. The author mentions certain interpretations in case law without identifying, in the passage concerned, any particular decision.

[19] French Commercial Code, Article L. 622-24, in the version in force since 31 December 2025; concerning the consequences of failure to declare a claim, Article L. 622-26, in the version in force since 1 October 2021.

[20] French Court of Cassation, Commercial Chamber, 5 February 2025, No. 23-22.380, published in the Bulletin, particularly paragraph 6; DEDEURWAERDER Gilles, "Declaration of Tax Claims: The Opening of Collective Insolvency Proceedings Does Not Preclude the Initiation of a Tax Audit", Bulletin Joly Entreprises en difficulté, May 2025, ref. BJE202b3, particularly section 3, "Justification".

[21] Alain ZENNER, "Fifty Shades of Grey in Insolvency Law: A Reasoned Dictionary of Continuing or New Interpretative Controversies", Revue de droit commercial belge, 2020, No. 3, pp. 288–320, particularly p. 299, No. 16.

[22] Belgian Code of Economic Law, Book XX concerning business insolvency, Article XX.9, introduced by the Law of 11 August 2017 inserting Book XX into the Code of Economic Law, as subsequently amended and supplemented.

[23] Belgian Code of Economic Law, Articles XX.8 and XX.155, § 2; Francophone Conference of Business Courts, Bankruptcy Vade Mecum, 2025 edition, p. 30, paragraph 76.

[24] Belgian Royal Decree of 23 March 2017 governing the operation of the Central Solvency Register, Belgian Official Gazette of 27 March 2017, p. 39863 et seq., Articles 4–6, Articles 4 and 6 as amended by the Royal Decree of 4 October 2023.

[25] Dahir No. 1-20-100 of 31 December 2020 promulgating Law No. 43-20 on trust services for electronic transactions, Official Bulletin No. 6970 of 18 March 2021, Articles 27 and 28, pp. 538–539.

[26] Dahir No. 1-26-07 of 11 February 2026 promulgating Law No. 58.25 on civil procedure, Official Bulletin No. 7485 of 23 February 2026, Articles 623, 628, 638 and 639.

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