

NATIONAL UNION OF THE ROMANIAN BARS
BUCHAREST BAR



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LEGAL OPINION

regarding the determination of the "Travel Coin" crypto-asset typology, token built on the blockchain platform (BSC - Binance Smart Chain) of the Binance Coin - BNB crypto-asset, as a "utility token".

I. Preliminary data:

The undersigned, a form of exercising the profession of lawyer, in accordance with the provisions of law no. 51/1995 (R.), at the request of Mr. **Grigore Dan Sebastian**, associate and administrator of **S.C. Bastone Network S.R.L.**, Tax Code - 44170295, Registration No. - J3/1042/2021, having the European Unique Identifier (EUID) - ROONRC.J3/1042/2021, with the registered office in sat Bascov, com. Bascov, jud. Argeş, str. Luncă, nr. 6C, Romania, we have issued this legal analysis of the crypto-asset "**TravelCoin-TCOIN**" (TCOIN), built on the blockchain (*DLT distributed ledger technology*) **Binance Smart Chain(BSC)**, under the contract number **0xb8b10dafb5546b3740886d8a77b8b9bacb44fffd** and in compliance with the legal provisions applicable in Romania and the European Union.

This legal analysis is performed with the competencies deriving from our capacity of exercising the profession of lawyer within the Bucharest Bar, member of the National Union of Romanian Bars and the Council of European Bars (CCBE), in accordance with the provisions of Law no. 51/1995 (R.)

The legislation considered at the time of issuance of this document is the Romanian one and, implicitly, the European one, applicable throughout the European Union, according to the provisions of the Treaty on European Union (TFEU), to which Romania acceded in 2007.



In the individual analysis of the crypto-asset "TravelCoin-TCOIN" we took into account the information and documents provided by Mr. Grigore Dan Sebastian, respectively the summary of the white paper of the crypto-asset and its development plan, contained by the web page "tcoin.one".

II. Global analysis:

At national level, in Romania there is no detailed domestic legislation on crypto-assets, the only mention of them being found in the Fiscal Code of Romania (Law no. 227/2015), in which, in Article 114 paragraph (2) letter m), the Romanian legislator introduced in 2019 (by Law no. 30/2019) a relatively new category of taxable income, respectively those from the "transfer of virtual money".

However, the concept of "virtual money" is not defined by the national legislature, which merely established a method of calculating the tax generated by that income, in Article 116 (2) (c) of the Fiscal Code, according to which the tax is calculated by reporting the *"earnings from the transfer of virtual money in the case of income provided in art. 114 paragraph (2) let. m), determined as a positive difference between the sale price and the purchase price, including the direct costs related to the transaction. Earnings below the level of 200 lei/transaction are not taxed provided that the total earnings in a fiscal year do not exceed the level of 600 lei"*.

Even at the level of European Community legislation, we cannot at present consider legislative rules applicable in concrete terms to crypto-assets other than:

- a) financial instruments as defined in Article 4 (1) (15) of Directive 2014/65/EU;
- b) electronic money, as defined in Article 2 (2) of Directive 2009/110/EC, unless crypto-assets can be considered as tokens assimilated to electronic money;
- c) deposits as defined in Article 2 (1) (3) of Directive 2014/49/EU of the European Parliament and of the Council⁴⁹;
- d) structured deposits as defined in Article 4 (1) (43) of Directive 2014/65/EU;
- e) securitisation as defined in Article 2 (1) of (EU) Regulation 2017/2402 of the European Parliament and of the Council⁵⁰.



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However, in relation to the growing need to create favorable conditions for digital finance and to support their innovative potential, the European Commission, in its concern to prepare Europe for the digital age and build an economy capable of meeting the challenges of the future and in the service of citizens, issued on 24.09.2020 a Proposal for a "REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON MARKETS IN CRYPTO-ASSETS" registered under the number 2020/0265.

The proposal is based on Article 114 TFEU, which gives the European institutions the power to lay down appropriate provisions for the approximation of the laws of the Member States which have as their object the establishment and functioning of the internal market.

According to the explanatory memorandum, the Proposal seeks to remove obstacles to the establishment of the internal market and to improve its functioning for financial services by ensuring full harmonization of the applicable rules. At present, issuers of crypto-assets and crypto-asset-related service providers cannot take full advantage of the benefits of the internal market due to the lack of legal certainty regarding the regulatory treatment of crypto-assets, as well as the lack of a coherent and specific regulatory and supervisory framework at EU level. Although some Member States have already implemented a special regime, which includes certain service providers related to crypto-assets or parts of their business, in most Member States they operate outside any regulatory framework. In addition, more and more Member States are considering setting up special national regimes that explicitly target crypto-assets and crypto-asset-related service providers.

The existence of divergent frameworks, rules and interpretations across the Union on both crypto-assets and crypto-asset-related services restricts the ability of service providers to expand their activity at EU level. This means that providers of these inherently cross-border products and services are required to familiarize themselves with the laws of several Member States, obtain more national authorizations or register in more than one place and comply with certain often divergent, laws, sometimes adapting their business model from one state to another. Consequences of this state of affairs include the high costs, complexity and legal uncertainty faced by service providers operating in the field of crypto-assets and limiting the development and expansion of activities in the field of crypto-assets in the Union.

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In addition, the fact that in many Member States there are no legal frameworks applicable to crypto-asset-related service providers limits the availability of funding and sometimes even the extended access to necessary financial services, such as banking, due to regulatory uncertainty associated with crypto-assets and therefore with crypto-asset-related service providers.

By introducing a common framework at EU level, uniform operating conditions for EU companies can be established, overcoming differences between national frameworks, which lead to market fragmentation, and reducing the complexity and costs borne by companies operating in the EU in this domain. At the same time, a common framework at EU level will give companies full access to the internal market, as well as the legal security needed to promote innovation in the crypto-assets market. Finally, the common framework will ensure the integrity of the market and provide consumers and investors with an adequate level of protection and a clear understanding of their rights, while ensuring financial stability.

Thus, although at present the national and Community legislation does not regulate the market for these crypto-assets, *de lege ferenda*, at European Community level and, through the content of Article 114 TFEU, implicitly at national level, will be established by the Regulation currently in a phase of Proposals that have not yet begun to take legal effect.

III. Classification of the "TravelCoin-TCOIN" crypto-asset in relation to the Proposal for a "REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON MARKETS IN CRYPTO-ASSETS" registered under number 2020/0265 and other Community legislation in force:

According to the future Regulation, we have in mind the following relevant definitions:

"Article 3

Definitions

1. For the purposes of this Regulation, the following definitions shall apply:

(1) "distributed ledger technology" or "DLT" means a type of technology that supports the distributed recording of encrypted data;





(2) "crypto-asset" means a digital representation of the value or rights that can be transferred and stored electronically, using distributed ledger technology or similar technology;

(3) "asset-backed token" means a type of crypto-asset that aims to maintain a stable value, by reference to the value of several fiat money that have the status of legal tender, one or more commodities or one or more several crypto-assets or a combination of such assets;

(4) "electronic money token" means a type of crypto-asset whose main purpose is to be used as a medium of exchange and which aims to maintain a stable value, by reference to the value of a fiat money which has the status of legal tender ;

(5) "utility token" means a type of crypto-asset that is intended to provide digital access to a good or service, available on the DLT, and that is only accepted by the issuer of that token; "

According to the "white paper" of the TravelCoin-TCOIN crypto-asset, "TCoin tokens are used as a reward in the tourism industry, promote hospitality for tourism businesses, generate new beneficiaries, and reduce online booking costs to zero. These tokens, received by the beneficiary tourists can be used anywhere in the world, in partner locations, for various hospitality services, such as discounts on accommodation, access to SPAs, food and drinks, etc. In addition to their intrinsic usefulness, TCOIN tokens will be able to be traded on crypto-assets trading platforms, as well as exchanged with other crypto-assets. TCOIN tokens are supported by the Binance Smart Chain blockchain, through a technology that is fast, cheap and secure by validators (miners) worldwide. TCOIN tokens are transferable using blockchain technology and can be held both in the Travel Coin wallet and in any other electronic wallet that supports BSC - BEP20, such as the " Trust Wallet " wallet. By accepting TCOIN tokens, the travel and tourism business will gain free listings in the Travel Coin ecosystem, gaining more and more customers".

In relation to the characteristics presented, as well as the present and future legal provisions, the TCOIN token is not:

- a) **a financial instrument** as defined in Article 4 (1) (15) of Directive 2014/65/EU.
According to the text indicated, (art. 15)



"financial instruments" means the instruments referred to in Section C of Annex I; that section lists those instruments as follows:

"SECTION C

Financial instruments

1. *Securities.*
2. *Money market instruments. 12.6.2014 Official Journal of the European Union L 173/481 RO*
3. *Units of collective investment undertakings.*
4. *Option contracts, futures contracts, swap contracts, forward rate agreements and any other derivative contracts relating to securities, money, interest or yield rates, emission certificates or other derivatives, financial indices or financial measures that can be settled by physical delivery or cash.*
5. *Option contracts, futures contracts, swap contracts, forward contracts and any other derivative contracts relating to commodities to be settled in cash or may be settled in cash at the request of one of the parties, other than in the event of breach of obligations or other incident leading to termination;*
6. *Option contracts, futures contracts, swap contracts, forward contracts and any other derivative contract relating to commodities that can be settled by physical delivery, provided that they are traded on a regulated market, an MTF or an OTF, except for wholesale energy products traded on an OTF to be settled by physical delivery.*
7. *Option contracts, futures contracts, swap contracts, forward contracts and any other derivative contracts relating to goods that can be settled by physical delivery, which are not otherwise mentioned in point 6 of this section and are not for commercial purposes, which have the characteristics of other derivative financial instruments.*
8. *Derivative instruments used to transfer credit risk.*
9. *Financial contracts for differences.*
10. *Option contracts, futures contracts, swap contracts, forward rate agreements and any other derivative contracts relating to climate variables, freight charges or inflation rates or other official economic statistics to be settled in cash or may be settled in cash at the request of one of the parties, other than in the event of breach of obligations or other incident leading to termination, as well as any other derivative contract relating to assets, rights, obligations, indices and measures not otherwise stated herein, which presents the characteristics of other derivative financial instruments taking into account whether, in particular, it is traded on a regulated market, an OTF or an MTF.*





11. Emission certificates consisting of any unit recognized as complying with the requirements of Directive 2003/87/EC (Emissions Trading Scheme). "

b) electronic money, as defined in Article 2 (2) of Directive 2009/110/EC, according to which:

"Article 2

Definitions

For the purposes of this Directive, the following definitions shall apply:

"electronic money" means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions as defined in point 5 of Article 4 of Directive 2007/64/EC, and which is accepted by a natural or legal person other than the electronic money issuer".

c) a deposit, as defined in Article 2 (1) (3) of Directive 2014/49/EU of the European Parliament and of the Council⁴⁹, according to which:

"Article 2

Definitions

(1) For the purposes of this Directive, the following definitions shall apply:

3. "deposit" means a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution is required to repay under the legal and contractual conditions applicable, including a fixed-term deposit and a savings deposit, but excluding a credit balance where:

(a) its existence can only be proven by a financial instrument as defined in Article 4 (1) (17) of Directive 2004/39/EC of the European Parliament and of the Council (1), unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which exists in a Member State on 2 July 2014;

(b) its principal is not repayable at par;

(c) its principal is only repayable at par under a particular guarantee or agreement provided by the credit institution or a third party;



d) a structured deposit, as defined in Article 4 (1) (43) of Directive 2014/65/EU, according to which:

"Article 4

Definitions (1) For the purposes of this Directive, the following definitions shall apply:

43. "structured deposit" means a deposit as defined in point (c) of Article 2 (1) of Directive 2014/49/EU of the European Parliament and of the Council (1), which is fully repayable at maturity on terms under which interest or a premium will be paid or is at risk, according to a formula involving factors such as:

- (a) an index or combination of indices, excluding variable rate deposits whose return is directly linked to an interest rate index such as Euribor or Libor;
- (b) a financial instrument or combination of financial instruments;
- (c) a commodity or combination of commodities or other physical or non-physical non-fungible assets; or
- (d) a foreign exchange rate or combination of foreign exchange rates;

e) securitisation, as defined in Article 2 (1) of (EU) Regulation 2017/2402 of the European Parliament and of the Council 50, according to which:

"Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. "securitization" means a transaction or scheme, whereby the credit risk associated with an exposure or a pool of exposures is tranching, having all of the following characteristics:

- (a) payments in the transaction or scheme are dependent upon the performance of the exposure or of the pool of exposures;
- (b) the subordination of tranches determines the distribution of losses during the ongoing life of the transaction or scheme;
- (c) the transaction or scheme does not create exposures which possess all of the characteristics listed in Article 147(8) of Regulation (EU) No. 575/2013.

f) "Asset-related token", as it is "a type of crypto-assets that aim to maintain a stable value, by reference to the value of several fiat money that have the status of legal tender, one or more commodities or one or more of several crypto-assets or of a combination of such assets" - art. 3, point 1, paragraph (3) of the Regulation *de lege ferenda*.





The TCOIN crypto-asset does not aim to maintain a stable value in relation to the value of fiat money, goods or one or more crypto-assets, but in relation to the mutual benefits of ecosystem actors on travel and tourism.

g) "electronic money token", as it is "a type of crypto-asset whose main purpose is to be used as a medium of exchange and which aims to maintain a stable value, by reference to the value of a fiat money which has the status of a legal tender payment"- art. 3, point 1, paragraph (4) of the Regulation *de lege ferenda*.

IV. Conclusion:

Given the functionalities, features, applications and options of the TravelCoin-TCOIN token that has been subject to legal analysis, given the current legislative framework and the one that foreshadows in the near future in the European Union, we appreciate that the TravelCoin-TCOIN token is a utility token, in light of the provisions of art. 3, point 1, paragraph (5) of the Regulation *de lege ferenda*.

Sincerely,

„Ganea Octavian Romulus” Private Legal Practice

Uniunea Națională a Barourilor din România
Baroul București
Avocat OCTAVIAN GANEA
În conformitate cu disp. art.3 al.1, teza a 3-a din
Legea nr. 51/1995 atest data, identitatea părților
și conținutul prezentului act redactat de mine.
Nr. de înregistrare: 98..... Data 24.06.2021
Semnătura

Titular Lawyer
Octavian Romulus Ganea



This document, containing 9 (nine) pages, was prepared today 24.06.2021, in two (2) original copies, one to be communicated to the applicant and the other for the archive of the form of practicing the profession of lawyer, being signed and stamped on each page for compliance.

I, the undersigned DELCA CONSTANTIN, sworn translator and interpreter for the foreign language **English** based upon authorization no. 37258/23.12.2014 issued by the Romanian Ministry of Justice, do hereby certify the exactness of the text with the original document in Romanian; the text shown to me was translated in full, without omissions and its content and meaning have not been distorted.

Sworn Translator and Interpreter,
DELCA CONSTANTIN

