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Self-Laundering through Cryptoassets and Digital Currency Mixing Services

The Legal Classification of Cryptoassets as Property under Article 810 of the Italian Civil Code and Algorithmic Obfuscation via Wasabi Protocols under Italian Supreme Court of Cassation, Criminal Division, Judgment no. 26731/2026

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Current Legal Framework as of 11 November 2026: The doctrinal and statutory classification of transactions involving cryptoassets and the deployment of decentralized mixing protocols find a clarifying benchmark in Supreme Court case law governing the elements of self-laundering and *in rem* precautionary measures.

ABSTRACT

With Judgment no. 26731 of 16 July 2026, the Italian Supreme Court of Cassation, Criminal Division, consolidates the criminal law status of **cryptoassets**, qualifying virtual currencies as **property capable of forming the object of rights** under Article 810 of the Italian Civil Code and affirming that speculative operations conducted through **digital currency mixing services** satisfy the statutory elements of the **offence of self-laundering** under Article 648-ter.1 of the Italian Criminal Code. The decision clarifies that algorithmic obfuscation of financial traceability rules out at the root the applicability of the **personal use and enjoyment exemption**.

Key Takeaways

- **Legal classification of cryptoassets:** Virtual currencies constitute dematerialized property under Article 810 of the Italian Civil Code, capable of forming the economic proceeds of transformative criminal offences.
- **Obfuscation and mixing:** The deployment of Wasabi protocols and bounce accounts creates a transactional break that fulfills the requirement of a concrete obstacle to financial traceability.
- **Predicate tax offence:** Tax savings resulting from fraudulent evasion of tax payment under Article 11 of Legislative Decree no. 74/2000 constitute unlawful pecuniary benefits susceptible to reinvestment.
- **Inapplicability of the statutory exemption:** The anonymization of financial flows precludes the non-punishability clause for mere personal use or enjoyment under Article 648-ter.1(5) of the Italian Criminal Code.

CASE DOSSIER

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SUBJECT AREA
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LEADING DECISION
Italian Supreme Court of Cassation, Criminal Division, Judgment of 16 July 2026, no. 26731 — Deploying cryptocurrencies in specul

Legal Principle / Editorial Headnote

Cryptoassets constitute property capable of forming the object of rights under Article 810 of the Italian Civil Code; their reinvestment in speculative operations through digital currency mixing services fulfills the elements of the offence of self-laundering and excludes the personal enjoyment exemption.

01. FACTUAL BACKGROUND AND SCOPE OF APPLICATION OF IN REM PRECAUTIONARY SEIZURE

The decision delivered by the **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 26731/2026**[1] addresses the statutory prerequisites governing *in rem* patrimonial precautionary measures in the face of complex virtual currency transfers originating from tax evasion schemes. Supreme Court review focuses on the fulfillment of the offence of **self-laundering through cryptoassets and mixing services**, delineating the boundary between transformative speculative activity and the statutory non-punishability clause covering mere personal enjoyment or use. In the case at hand, the criminal investigation had ascertained the failure to file an income tax return in relation to substantial capital gains generated from cryptoasset trading for a taxable base exceeding EUR 580,000, followed by the channeling of those proceeds into **non-custodial wallets** and their subsequent fragmentation across decentralized networks designed to dissipate the patrimonial security of the Tax Administration.

At the precautionary stage, the Court of Review (*Tribunale del riesame*) of Foggia had upheld the **preventive seizure aimed at direct and value-based confiscation** under Article 648-quater of the Italian Criminal Code, finding sufficient *prima facie* evidence of an offence (*fumus commissi delicti*) with respect both to the predicate tax offences under Articles 5 and 11 of Legislative Decree no. 74 of 10 March 2000 and to the offence of self-laundering under Article 648-ter.1 of the Italian Criminal Code. Counsel for the suspect challenged the existence of an autonomous dissimulatory conduct, contending that cryptocurrencies lacked corporeal substance and were intended solely for personal use, while also alleging an overlap between the proceeds of the predicate tax offence and the assets subjected to the *in rem* restraint.

The Supreme Court dismissed the appeal, reiterating that appellate review of *in rem* precautionary orders under Article 325 of the Italian Code of Criminal Procedure remains strictly confined to **errors of law**, which encompass defects in reasoning only where reasoning is entirely omitted or merely illusory. For the purposes of preventive seizure, full proof of grave indicia of guilt is not required; rather, it suffices that the conduct is abstractly subsumable under the criminal provision on the basis of **concrete factual elements**. In the instant case, the multiplicity of transactional steps and the deliberate deployment of anonymization tools rendered the prosecution's hypothesis of an autonomous **transformative criminal offence** legally sustainable.

02. THE CLASSIFICATION OF CRYPTOASSETS AS PROPERTY AND THE GENESIS OF UNLAWFUL TAX PROCEEDS

2.1 — The Legal Nature of Virtual Currencies between Res in Commercium and Civil Law Property under Article 810 of the Italian Civil Code

The first theoretical juncture addressed by the Supreme Court concerns the **legal classification of cryptocurrencies** within the criminal and economic legal order. Legal scholarship and judicial practice have long oscillated among heterogeneous reconstructions driven by attempts to assimilate digital tokens to established legal categories. The Italian Supreme Court of Cassation, Criminal Division[1] firmly rules out equating virtual currencies with **fiat currency enjoying legal tender status**, since they lack a sovereign issuing authority as well as the institutional attributes of a statutory unit of account and stable store of value. Equally untenable is any wholesale assimilation to the **typified financial instruments** listed under Article 1(2) of Legislative Decree no. 58 of 24 February 1998, which constitute a closed statutory catalogue (*numerus clausus*) unsusceptible to analogical extension.

The systematic placement of cryptoassets is therefore anchored in the **civil law concept of property** (*beni*). Pursuant to Article 810 of the Italian Civil Code, *"Property consists of things that may form the object of rights."* The Court emphasizes the empirical reality whereby virtual currency constitutes a ***res in commercium***, produced, traded, and monetized on the market insofar as economic actors are willing to transfer tangible value in exchange for acquiring title thereto. It thus qualifies as a dematerialized asset existing digitally on a distributed ledger, fully capable of forming the object of patrimonial legal relationships and appropriation.

This doctrinal framework finds robust support in the European Union regulatory architecture established by Regulation (EU) 2023/1114 (MiCAR), aligned within domestic law through the insertion of Article 1(2)(m-bis) into Legislative Decree no. 231 of 21 November 2007. Recognizing that cryptoassets hold the status of **property capable of forming the object of rights** enables courts to identify them as the material object of the conduct of substitution or transfer typified under Article 648-bis of the Italian Criminal Code and incorporated into Article 648-ter.1 of the Italian Criminal Code, thereby overcoming any legality objection premised on the intangible nature of digital resources.

2.2 — Generation of Unlawful Proceeds from Fraudulent Evasion of Tax Payment under Article 11 of Legislative Decree no. 74/2000

Once the patrimonial nature of cryptoassets has been established, the inquiry shifts to the genesis of the unlawful proceeds. Settled Supreme Court case law recognizes that **cost savings** resulting from the evasion of tax liabilities constitute an economically appreciable benefit derived from an intentional criminal offence, capable of serving as the material predicate for self-laundering under Article 648-ter.1 of the Italian Criminal Code. Defence counsel had contested the configurability of the predicate offence under Article 11 of Legislative Decree no. 74 of 2000, objecting that no enforced tax collection proceedings were pending at the time the funds were transferred.

The statutory provision punishes anyone who, in order to evade tax liabilities, *"carries out sham transfers or performs other fraudulent acts upon their own or others' assets capable of rendering enforced tax collection proceedings wholly or partially ineffective"*. The Supreme Court of Cassation reaffirms that this offence is consummated as a **crime of concrete endangerment**: it is unnecessary for the Tax Administration to have already issued a formal notice of assessment or initiated compulsory enforcement. As previously examined with regard to fraudulent evasion of tax payment and the prerequisites for preventive seizure, what matters exclusively is the *ex ante* suitability of the deceptive stratagems to impair the debtor's patrimonial security.

In the case under scrutiny, the deliberate channeling of trading profits into unidentifiable wallets while a tax audit was already underway squarely fulfills the requirement of **fraudulent acts**. Once shielded from public revenue claims, those resources did not merely dissipate; rather, they were funneled into a distinct **transformative criminal offence** characterized by the economic autonomization of the illicit proceeds and their re-injection into high-yield speculative circuits.

03. FULFILLMENT OF THE OFFENCE OF SELF-LAUNDERING THROUGH CRYPTOASSETS AND MIXING SERVICES

3.1 — Mixing Protocols and the Concrete Obstacle to the Traceability of Financial Contamination

The linchpin of the statutory assessment under Article 648-ter.1 of the Italian Criminal Code lies in the suitability of the conduct to concretely obstruct the identification of the criminal origin of the assets. Within the virtual asset ecosystem, this requirement acquires a markedly technological dimension. The Supreme Court[1] highlights how **mixing services** represent an evolution of decentralized exchange mechanisms specifically engineered to sever the accounting sequence of the distributed ledger and conceal beneficial ownership of digital values.

Their operational architecture deploys advanced wallets that route incoming deposits into dedicated **entry accounts** before dispersing them across a chain of **bounce accounts** and intermediary addresses. Funds originating from multiple users are aggregated into a single commingled liquidity pool — known as a *pool account* — from which subsequent fractionated transactions are dispatched toward final **exit accounts**. This mechanism severs the one-to-one correspondence between deposited sums and withdrawn assets, thereby frustrating forensic *taint analysis* aimed at tracing the illicit provenance of financial flows.

> Shielding transactions through mixing protocols severs the informational continuity of the blockchain, transforming the speculative deployment of cryptoassets into a deliberate manoeuvre of dissimulation that cannot be exempted as personal enjoyment.

From a doctrinal standpoint, the decision reiterates that the obstacle to traceability must be assessed on the basis of an ***ex ante* prognostic evaluation**. Whether the offence of **self-laundering through cryptoassets and mixing services** is made out does not depend on whether investigators eventually manage to decipher or reconstruct the transaction trail through sophisticated digital forensics. Rather, it suffices that the conduct possesses an **objective dissimulatory capacity**, generating a condition of opacity that prevents the immediate identification of the criminal origin of the resources injected into speculative circuits.

3.2 — Scope and Limits of the Non-Punishability Clause for Personal Enjoyment or Use

One of the central grounds of appeal raised by the defence concerned the applicability of the **non-punishability clause** set forth under Article 648-ter.1(5) of the Italian Criminal Code. Defence counsel argued that holding cryptocurrencies and keeping them at the appellant's disposal amounted to mere personal enjoyment incapable of grounding a charge of self-laundering. That contention failed to persuade and was rejected by the Supreme Court, which reiterated that the statutory safe harbour presupposes the complete absence of any transformative or dissimulatory conduct.

As regards the boundaries of this exemption, the ruling aligns seamlessly with the principle established by the **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 16329/2026**[2]. In that precedent, concerning the re-injection of unlawfully acquired fuel into the business operations of a haulage company, the Court clarified that the exemption applies exclusively where the offender uses the proceeds directly and statically to satisfy strictly personal needs, without performing any operation capable of obstructing the identification of their criminal origin. Conversely, commingling illicit assets with third-party corporate estates or subjecting them to transformative manipulation rules out any exempting effect at the root.

Decision / Court	Judicial Stance	Core Principle
Supreme Court of Cassation, Criminal Division, no. 26731/2026	Consistent	Deploying cryptocurrencies in speculative circuits and mixers excludes the personal enjoyment exemption.
Supreme Court of Cassation, Criminal Division, no. 16329/2026	Consistent	The non-punishability clause requires direct consumption free from obstructive manoeuvres or corporate commingling.
Supreme Court of Cassation, Criminal Division, no. 20457/2026	Evolutionary	Precautionary restraint over digital wallets requires rigorous reasoning on evidentiary purpose and *fumus*.

Applying factual and legal **distinguishing** allows the operational boundaries to be drawn with precision: the statutory exemption lawfully applies where the perpetrator spends illicit proceeds directly to purchase consumer goods intended for household use without interposing deceptive shields, whereas it **does not apply** in the presence of conduct marked by transformative dynamism. Purchasing virtual currencies on foreign exchanges and routing them through decentralized mixers constitutes an **economic and financial deployment for speculative ends** that categorically forecloses personal enjoyment.

3.3 — Triggers for Precautionary Seizure and Evidentiary Burdens on Defence Counsel

Preventive seizure for self-laundering is triggered whenever the public prosecutor demonstrates, through concrete factual elements including circumstantial evidence, that unlawful proceeds have been channeled toward concealment tools or speculative ventures, whereas defence counsel bears the practical **evidentiary burden** of documenting static custody of the wallet or mere personal consumption of the funds.

Sustaining an *in rem* precautionary measure nonetheless demands rigorous evidentiary delineation, as underscored by the **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 20457/2026**[3]. In those proceedings, which concerned an evidentiary seizure imposed upon an electronic money wallet in connection with alleged online offences, the Supreme Court quashed and remanded the review order for illusory reasoning, identifying a failure to adequately substantiate both the nexus of pertinence to the offence and the actual evidentiary purpose of the restraint. Unlike cases in which algorithmic obfuscation protocols emerge, the mere transit of financial flows does not permit an automatic presumption of dissimulatory intent.

From the perspective of **litigation defence strategy**, counsel challenging a seizure order before the Court of Review under Article 324 of the Italian Code of Criminal Procedure must target any radical lack of independent judicial reasoning where the issuing judge has uncritically reproduced tax police findings without autonomous scrutiny. As previously noted in our analysis of contractual fraud and self-laundering across online platforms, an effective defence must rely on objective blockchain records: demonstrating the full transparency of destination public addresses and the absence of mixing services neutralizes the *fumus* of a transformative offence.

04. CONCLUSIONS AND SYSTEMATIC PERSPECTIVES ON COMBATING CYBERLAUNDERING

The judgment under review marks a significant milestone in the evolution of criminal law governing the digital economy, bridging classic civil law property categories and criminal enforcement needs. Anchoring cryptoassets systematically in the concept of property under Article 810 of the Italian Civil Code dispels interpretive uncertainties tied to the intangible nature of digital tokens, conferring a clear and defined statutory status upon the material object of laundering transfers. The Court makes clear that the shift toward decentralized finance creates no impunity-free safe haven for proceeds derived from tax evasion.

With respect to the prohibited conduct, the fulfillment of the offence of **self-laundering through cryptoassets and mixing services** rests on a robust criterion of objective attribution grounded in the deliberate severance of the informational chain of transactions. Deploying protocols engineered to break traceability between originating and final destination addresses prevents the transaction from being characterized as a mere exercise of personal enjoyment. Technical manipulation thus rises to the level of an intrinsically fraudulent manoeuvre designed to conceal wealth diverted from public revenue claims.

An unmistakable warning follows for tax and corporate criminal litigation: speculative investment in cryptoassets affords no shield against confiscatory *in rem* precautionary measures. Upholding preventive seizure aimed at confiscation serves the imperative of neutralizing the reinvestment of illicit capital, while simultaneously demanding thorough judicial reasoning capable of distinguishing genuine obfuscation of financial flows from the mere technological custody of digital storage devices.

References & Authorities Cited

Statutory Provisions

- Article 810 of the Italian Civil Code — Civil law definition of property (*beni*) as things capable of forming the object of rights.
- Article 648-bis of the Italian Criminal Code — Offence of money laundering and statutory notion of obstructing the identification of the criminal origin of assets.
- Article 11 of Legislative Decree no. 74 of 10 March 2000 — Fraudulent evasion of tax payment as a predicate criminal offence.

Case Law Cited

1. **Italian Supreme Court of Cassation, Criminal Division, Judgment of 16 July 2026, no. 26731** — Deploying cryptocurrencies in speculative operations through mixing services fulfills the offence of self-laundering, since cryptoassets qualify as property under Article 810 of the Italian Civil Code and algorithmic shielding falls outside the personal enjoyment exemption. Outcome: dismissed. Para.: Considerations in Law, paras. 2–4. ↑

2. **Italian Supreme Court of Cassation, Criminal Division, Judgment of 6 May 2026, no. 16329** — The non-punishability clause for personal enjoyment or use under Article 648-ter.1(5) of the Italian Criminal Code applies solely where proceeds are used directly without dissimulatory manoeuvres or commingling within third-party economic circuits. Outcome: declared inadmissible. Para.: Considerations in Law, para. 2. ↑

3. **Italian Supreme Court of Cassation, Criminal Division, Judgment of 3 June 2026, no. 20457** — Evidentiary seizure of a cryptocurrency wallet requires rigorous and substantive judicial reasoning regarding both pertinence to the offence and the existence of *fumus commissi delicti*. Outcome: quashed in part and remanded; declared inadmissible as to the remainder. Para.: Considerations in Law, para. 1. ↑

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