

Title	Private International Law Aspects of the Digital Economy: Report
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Private International Law Aspects of the Digital Economy: Report

I. Introduction

- 1 At its March 2025 meeting, the Council on General Affairs and Policy (CGAP) mandated the Permanent Bureau (PB) to continue, subject to available resources:
 - a. monitoring developments with respect to the digital economy, including digital platforms, artificial intelligence and automated contracting, immersive technologies, and decentralised autonomous organisations, with a view to identifying private international law (PIL) issues for potential future work; and
 - b. working with relevant organisations on matters relating to the PIL aspects of the digital economy.¹
- 2 The work following on these mandates (the “Digital Economy Project”) focuses on two aspects, subject to available resources: a general monitoring of developments in the digital economy for issues relating to PIL, and responses to requests for the PB’s input on PIL-related issues arising in the work of sister and partner organisations in the digital economy. Work in the Digital Economy Project is executed keeping in mind the limited resources available at the PB. Resource allocation to the Digital Economy Project takes into account the higher prioritisation of other work carried out under the purview of the International Commercial, Digital and Financial Law Division (the “Division”), in particular the Experts’ Groups on Central Bank Digital Currencies,² on Carbon Markets,³ and on Digital Tokens.⁴ This Prel. Doc. reports on the work of the Division over the last year in the Digital Economy Project.

II. PIL Aspects of the Digital Economy

A. Digital Platforms

- 3 The PB has continued to monitor developments in the use of digital platforms. This work is in parallel to and alignment with the study by the EG on Digital Tokens in its Tokens Workstream,⁵ in which the EG is currently discussing the PIL issues arising from platform structures and whether, for the purposes of an examination of PIL issues, it would be more technically sound and appropriate to focus on the token itself, or on the digital platform on which the tokens sit and the relationships embedded within that platform’s systems.⁶
- 4 At its 58th session, which was held on 7-23 July 2025, the UNCITRAL Commission had before it a note by the Secretariat containing a proposal by the United Arab Emirates (UAE) and Spain for possible future work on legal aspects of digital trade, with a special focus on digital platforms.⁷

¹ “Conclusions and Decisions of CGAP 2025 (4-7 March 2025)”, C&D No 17 (available on the HCCH website (www.hcch.net) under “Governance” then “Council on General Affairs and Policy” => “Archive (2000-2025)”).

² See Prel. Doc. No 3 of November 2025, Experts’ Group on Central Bank Digital Currencies: Reports of the third and fourth meetings (available on the HCCH website (www.hcch.net) under “Governance” => “Council on General Affairs and Policy”).

³ See Prel. Doc. No 4 of January 2026, Experts’ Group on Carbon Markets: Reports of the first, second and third meetings (available on the path indicated in note 2 above).

⁴ See Prel. Doc. No 5 of January 2026, Experts’ Group on Digital Tokens: Reports of the first and second meetings (available on the path indicated in note 2 above).

⁵ See para. 2, Prel. Doc. No 5 of January 2026 (*ibid*).

⁶ Paras 6 and 12, Prel. Doc. No 5 of January 2026 (*ibid*).

⁷ [Report of the United Nations Commission on International Trade Law \(UNCITRAL\)](#), Fifty-eighth session (7-23 July 2025), UN Doc. A/80/17, at para. 262. The text of the proposal is set out in the [Proposal by the United Arab Emirates and Spain on possible future work on legal aspects of digital trade: Note by the Secretariat](#) (7 May 2025), UN Doc. A/CN.9/1227.

Responding to the global expansion of digital platforms beyond traditional e-commerce into new technologies and tradable objects, the proposal seeks (1) a uniform and global concept of “platforms”; (2) a contract-based framework relying on transparency obligations and the regulation of key terms and conditions to enhance fairness in digital trade, ensure legal certainty and predictability, and remove barriers to cross-border trade; (3) common due-diligence standards for platform operators; (4) a harmonised approach to selected liability issues; and (5) focused consideration of platform-based dispute resolution in the platform economy.⁸

- 5 Following on informal consultations between the PB and the UNCITRAL Secretariat, the PB stated at the Commission session that, in the interests of cooperation and coordination between the HCCH and UNCITRAL, it would be pleased to support the work of UNCITRAL as appropriate. After discussion, the UNCITRAL Commission requested the UNCITRAL Secretariat to conduct “exploratory work on legal aspects of digital trade with a focus on digital platforms and private law, including an assessment of the desirability and feasibility of developing a harmonized legal text, possibly in the form of a model law”,⁹ and indicated that in respect of this project, “[t]he envisaged cooperation with HCCH was welcomed”.¹⁰
- 6 On the invitation of the UNCITRAL Secretariat, the PB has participated the first of three conferences being organised by UNCITRAL as part of its exploratory work, the UNCITRAL-UAE Global Summit on Digital Trade and Digital Platforms, which was held in Dubai, UAE, from 8 to 9 December 2025.¹¹ On the invitation of the UNCITRAL Secretariat, the PB will also participate in the next two colloquia, to be held at the United Nations Headquarters in New York City, United States, from 12 to 13 February 2026,¹² and in Madrid, Spain, from 9 to 10 May 2026. The results of the series of conferences are to be reported to the UNCITRAL Commission at its fifty-ninth session, to be held from 22 June to 10 July 2026.
- 7 The PB and the UNCITRAL Secretariat have engaged in preliminary exchanges with a view to identifying appropriate practical arrangements for cooperation between the HCCH and UNCITRAL on this topic. The current understanding is that the PB and the UNCITRAL Secretariat would ensure that work at both the HCCH and UNCITRAL would proceed with adjacent and aligned workstreams at each institution, with each secretariat sitting as Observer in the other’s work in order to ensure alignment.
- 8 In the course of its own discussions, the EG on Digital Tokens has raised the question of whether to focus on the token itself, or on the platform and the relationships embedded within that platform’s systems.¹³ In consultation with the Chair of the EG on Digital Tokens, and subject to CGAP mandating the continuation of EG’s work, the PB plans to bring the UNCITRAL project to the attention of the EG for consideration as to whether, and how, its work can be aligned with UNCITRAL’s work on the topic of digital platforms. If, after deliberation next year, the EG on Digital Tokens recommends that its work focuses on PIL issues from the perspective of digital platforms rather than from the token itself, it will be for the EG to recommend to CGAP in 2027 that it does so. In that case, the work on digital platforms will transit to the EG on Digital Tokens, working in alignment with UNCITRAL. In the case that the EG on Digital Tokens does not recommend that the

⁸ UNCITRAL, *Proposal by the United Arab Emirates and Spain on possible future work on legal aspects of digital trade* (7 May 2025) [UN Doc A/CN.9/1227](#).

⁹ [Report of the United Nations Commission on International Trade Law \(UNCITRAL\)](#), Fifty-eighth session (7-23 July 2025), UN Doc. A/80/17, at para. 22(e)(iv).

¹⁰ *Ibid.*, at para. 266.

¹¹ The link to the programme of the Summit is available at: <https://uncitral.un.org/en/global-summit-on-digital-trade-and-digital-platforms> (last accessed on 30 January 2026).

¹² *Ibid.*

¹³ See *supra* note 6.

focus of its work shifts to the perspective of digital platforms but rather that it continues to remain on the token, the PB plans, subject to available resources, to support the work on digital platforms at UNCITRAL at the secretariat level.

- 9 The PB also notes that, by letter dated 11 December 2025, the European Law Institute (ELI), of which the HCCH is an institutional member and which is an Observer of the HCCH, proposed a joint exploration of the PIL challenges raised by digital identity tokens as well as digital platforms.¹⁴

B. Digital Payments

- 10 Also at its fifty-eighth session, the UNCITRAL Secretariat had before it a proposal to undertake possible future work in the area of digital payments, based on a proposal set out in a note by the Secretariat and supported by Saudi Arabia and Sierra Leone.¹⁵ The proposal provided “background information on developments in payment methods and systems that, along with the development of e-commerce, had led to exponential growth in digital payments around the globe and efforts to facilitate digital trade, including through provisions on digital trade in free trade agreements, digital economy agreements and other similar instruments”.¹⁶
- 11 Following on informal consultations between the PB and the UNCITRAL Secretariat, the PB stated at the Commission session that, in the interests of cooperation and coordination between the HCCH and UNCITRAL, it would be pleased to support the work of UNCITRAL as appropriate. After discussion, the UNCITRAL Commission requested the UNCITRAL Secretariat to carry out exploratory work on the topic of digital payments, including organising a colloquium “to review legal issues and challenges related to digital payments and to take stock of existing international and regional instruments and efforts by other organizations, and that the secretariat should report back to the Commission on the desirability and feasibility of developing harmonized standards”.¹⁷
- 12 On the invitation of the UNCITRAL Secretariat, the PB participated in the UNCITRAL Colloquium on Digital Payments and Paperless Trade, which was held at the United Nations Office at Vienna, Austria, on 19 to 22 January 2026. The results of the Colloquium are to be reported to the UNCITRAL Commission at its fifty-ninth session, to be held from 22 June to 10 July 2026.
- 13 The PB and the UNCITRAL Secretariat have engaged in preliminary exchanges with a view to identifying appropriate practical arrangements for cooperation between the HCCH and UNCITRAL on this topic. The current understanding is that the PB and the UNCITRAL Secretariat would coordinate their respective work so that it proceeds through adjacent and aligned workstreams at the HCCH and UNCITRAL, with each secretariat participating as an Observer in the other’s work.
- 14 In the course of its discussions, the EG on Central Bank Digital Currencies (CBDCs) has raised the question of whether the jurisdiction and applicable law issues under consideration in relation to CBDCs would be better addressed from the perspective of CBDCs within cross-border payment systems. This aligns with the original report made by the PB to CGAP 2024, which identified the applicable law and jurisdiction issues raised by digital cross-border payment systems, including the cross-border use and transfers of CBDCs and other forms of digital money as electronic means of payments, as a necessary, desirable and feasible topic.¹⁸

¹⁴ Letter from ELI President to the Deputy Secretary General of the HCCH, 11 December 2025, on file with the PB.

¹⁵ UNCITRAL, *supra* note 7 at paras 245 and 267-270. The text of the proposal is set out in [Possible future work in the area of digital payments: Note by the Secretariat](#), (5 May 2025), UN Doc. A/CN.9/1229.

¹⁶ UNCITRAL, *supra* note 7, at para 267.

¹⁷ UNCITRAL, *supra* note 7, at para 270.

¹⁸ See Prel. Doc. No 4 of January 2026, Experts’ Group on Carbon Markets: Reports of the first, second and third meetings (available on the path indicated in note 2 above).

- 15 In consultation with the Chair of the EG on CBDCs, and subject to CGAP mandating the continuation of the EG's work, the PB plans to bring the UNCITRAL project to the attention of the EG for consideration as to whether, and how, its work can be aligned with UNCITRAL's work on digital payments. If, after deliberation next year, the EG on CBDCs recommends that its work focuses on PIL issues from the perspective of digital payments, it will be for the EG to recommend to CGAP in 2027 that it does so. In that case, the work on digital payments will either transit to the EG on CBDCs or, if the EG focuses solely on the use of CBDCs within digital payment systems, then the PB plans to continue supporting UNCITRAL's work at the secretariat level where it relates to PIL matters but is not being considered by the EG, subject to available resources.

C. Artificial Intelligence (AI) and Automated Contracting

- 16 The PB participated as an Observer in the work of UNCITRAL Working Group IV, which completed work on the text that was adopted as the UNCITRAL Model Law on Automated Contracting (MLAC) at its 57th session, held from 24 June to 12 July 2024,¹⁹ and completed its review of the Guide to Enactment of MLAC at its 67th session held from 18 to 22 November 2024.²⁰ Following the UN General Assembly's request on 4 December 2024,²¹ the *UNCITRAL Model Law on Automated Contracting with Guide to Enactment* was published in May 2025.²² The MLAC recognises the legal validity of contracts formed and performed through automated systems (Art. 5) and establishes attribution rules linking automated actions to natural or juridical persons (Art. 7). While enhancing legal certainty for automated transactions, it raises PIL questions, including the (non-)localisation of parties, identification of connecting factors in the absence of express jurisdiction or choice-of-law clauses, and the relevance of traditional concepts of contract formation and performance in automated and intangible transactions.
- 17 Recent instruments, including the EU AI Act,²³ the EU Product Liability Directive 2024/2853,²⁴ and the ELI Guiding Principles and Model Rules on Digital Assistants for Consumer Contracts²⁵ reflect a growing focus on regulating AI within contractual and liability frameworks. These developments leave open key PIL questions, notably the application of existing PIL instruments to AI-related disputes, treatment of cross-border automated contracting where regulatory approaches diverge, and the impact of mandatory consumer protection rules on party autonomy.
- 18 The PB will continue to monitor AI-related developments and their implications for PIL, including effects on party autonomy, characterisation, jurisdiction, connecting factors for applicable law, and public policy considerations in recognition and enforcement.

¹⁹ Report of the UNCTRAL seventy-ninth Session, [A/79/17](#).

²⁰ Annotated provisional agenda of the Working Group IV (Electronic Commerce) sixty-seventh session, [A/CN.9/WG.IV/WP.184](#).

²¹ UN, Resolution adopted by General Assembly on 4 December 2024, [A/RES/79/119](#), p.2.

²² Available at <https://uncitral.un.org/en/mlac> (last accessed 9 December 2025).

²³ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) [2024] OJ L 2024/1689.

²⁴ Directive (EU) 2024/2853, [2024] OJ L 2024/2853, available at : <https://eur-lex.europa.eu/eli/dir/2024/2853/oj/eng> (last accessed 30 January 2026).

²⁵ European Law Institute, Guiding Principles and Model Rules on Digital Assistants for Consumer available at: https://www.europeanlawinstitute.eu/fileadmin/user_upload/p_eli/Projects/Algorithmic_Contracts/Guiding_Principles_and_Model_Rules_on_Digital_Assistants_for_Consumer_Contracts.pdf (last accessed 30 January 2026).

D. Immersive Technologies

- 19 Immersive virtual environments operate through decentralised, cross-border systems, characterised by pseudonymous participants and transactions extending beyond traditional territorial boundaries within virtual worlds. This creates challenges for applying traditional PIL rules on jurisdiction, applicable law, and enforcement. Disputes over virtual assets and the use of smart contract-based dispute resolution²⁶ further raise questions of legal characterisation²⁷ and enforceability before national courts.²⁸ The PB continues to monitor these developments, as they test the adequacy of existing PIL frameworks and raise important issues of legal certainty, effective enforcement, and coherence in cross-border digital activity.

E. Decentralised Autonomous Organisations (DAOs)

- 20 DAOs operate on a cross-border basis through code-based governance structures, raising fundamental PIL challenges. This makes it difficult to determine jurisdiction and the law applicable using traditional PIL connecting factors.²⁹ This has prompted consideration of alternative approaches, including connecting factors based on the location of core developers, express choice-of-law clauses embedded in smart contract code, or the jurisdiction most closely connected to the DAO's activities.³⁰ The PB continues to monitor these developments closely, as they challenge core assumptions of PIL and have significant implications for legal certainty, effective enforcement, and the protection of parties in cross-border, decentralised environments.

III. Proposal for CGAP

- 21 The PB invites CGAP to note the issues described in this Prel. Doc., and proposes the following Conclusions and Decisions for CGAP's consideration:

CGAP mandated the PB to continue, subject to available resources:

- a. monitoring developments with respect to the digital economy, including digital platforms, digital payments, artificial intelligence and automated contracting, immersive technologies, and decentralised autonomous organisations, with a view to identifying PIL issues for potential future work;
- b. cooperating and coordinating with UNCITRAL with respect to work on digital platforms and digital payments; and
- c. working with relevant organisations on matters relating to the PIL aspects of the digital economy.

The PB will report to CGAP 2027. If the report identifies work that would extend beyond monitoring, including the possible development of a PIL framework, CGAP will decide whether such work shall be conducted, with due consideration of resource implications. If CGAP decides that such work is to be conducted, it shall be reflected expressly in the HCCH's work programme.

²⁶ Gabuthy, Y. (2023). Blockchain-Based Dispute Resolution: Insights and Challenges. *Games*, 14(3), 34. <https://doi.org/10.3390/g14030034> p.5.

²⁷ Lopez Rodriguez, A.M., "Law Applicable to Virtual Real Estate in the Metaverse" (2024) Proceedings of the International Congress Towards a Responsible Development of the Metaverse, Alicante, 13-14 June, 2024, pp 4–6.

²⁸ Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958).

²⁹ Sopilko, "The legal status and regulation of decentralized autonomous organizations (DAOs) in private international law", *Journal of International Legal Communication*, 18(3) (2025), 97–113, p.102. Available at https://jilc.e-science.space/wp-content/uploads/2025/10/JILC_3_2025-97-113.pdf. (last accessed 16 December 2026).

³⁰ *Ibid.*