

*The Chairman of the Legal Committee,*

*UNIDROIT  
Prof. Ignacio TIRADO  
Secretary General  
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Dear Prof. Ignacio Tirado,

On behalf of the Legal Committee of Paris Europlace, please let me first thank you for the very interesting discussions you hosted and co-chaired, early October in Rome, during the Second Preparatory Meeting of the HCCH-UNIDROIT Joint Project on the law applicable to cross-border holdings and transfers of digital assets and tokens. As you perfectly know, such in-depth exchanges among experts are crucial to ensure a secure and predictable legal regime at international level in these key areas.

May I also confirm how essential these topics are for entities based in Europe and in particular in the French international marketplace, as many large foreign firms are now members of Paris Europlace's Board. Thus, together with foreign and French representatives of banks, insurance companies, asset managers, intermediaries, FinTech and law firms participating to the Paris Europlace' Legal Committee I chair, I would like to draw you attention on the following points.

As a general rule, the regulatory framework that applies to new digital technologies attracts our greatest attention, whether the rules are domestic, European or international. Early 2023, the Legal Committee discussed in particular the public consultation on crypto-assets launched by UNIDROIT. At that time, this consultation, leaving only a few weeks for interested stakeholders to respond, already raised fundamental questions that remained after the May's Governing Council Meeting.

Indeed, I am convinced that the topics that are discussed at the UNIDROIT-HCCH level are very much likely in the short or medium term to exert a significant influence on legislative and regulatory initiatives affecting crypto-assets across jurisdictions, and many entities consider that this may happen in a direction that could generate major changes for the players based in the European Union notably, for example in matters of civil law, commercial law and securities law which are, as you know, completely different from the common law.

More specifically, key notions such as "digital assets" and "control" do not seem clearly defined, while their use would have merited a deep impact assessment to be carried out in

order to identify, and if possible limit, the risks of contradiction, distortions of interpretation, if not conflict of laws between national, European (e.g. MiCA Regulation) and international levels.

In addition, even though the UNIDROIT principles were originally deemed to remain non-binding, constituting recommendations or guidelines, the principle of primacy of international law raises some concerns among many firms that large uncertainties could surround the hierarchy of standards applicable in this area and that conflicts of standards may very soon penalize core activities, or even the business model, of European companies. Last, we do not think that there is a clear need expressed by the private sector, and not only in Europe, to even contemplate the opportunity to envisage an international instrument right now.

Consequently, we highly recommend UNIDROIT and the HCCH to deeply include in their analysis the concerns we think many practitioners currently have, in Europe and beyond. We all have to work together to ensure a clear legal regime across jurisdictions and we of course remain committed to closely continuing working with all relevant stakeholders to ensure UNIDROIT and the HCCH will succeed into that goal.

We remain at your disposal to examine, at your convenience, the conditions for an active participation in the process initiated by UNIDROIT.

Yours faithfully,



Michel PRADA