



# UNIDROIT

International Institute for the Unification of Private Law  
*Institut International pour l'Unification du Droit Privé*

## INTERNATIONAL SOFT LAW AND DOMESTIC COURTS

**12 December 2024**  
**UNIDROIT Headquarters**  
**Villa Aldobrandini,**  
**Via Panisperna 28**  
**Rome**

### III High-Level Dialogue



#### Background

In recent years, domestic and international courts have addressed claims on sustainability, human rights and climate change. Among the many issues arise from such claims, in terms of both substantive and procedural law, the one which has received less consideration, despite its theoretical and practical interest, concerns the direct reference made in some recent court decisions to international soft law instruments. In particular, the recent case concerning Shell Plc. in the Dutch courts (latest pronouncement: Dutch Court of Appeal, judgment 12 November 2024) seem to have referred directly to the Paris Agreement to establish liability in tort under domestic law. Parallel cases exist in other jurisdictions, although each is based on the specificities of the relevant legal framework (see for a challenge to a State financing: *Friends of the Earth v. UK Export Finance Department*, latest decision by the UK Supreme Court June 2023). To the same end, Supreme Courts have often recognised that principles established under international law could be applied internally as part of the country's constitutional framework (see Korean Constitutional Court decision 29 August 2024).

This is the third edition of the yearly seminars held by UNIDROIT and the Service for Legal Affairs, Diplomatic Disputes and International Agreements of the Italian Ministry of Foreign Affairs and International Cooperation, which address the role and interpretation of international soft law. The event is open to legal advisers and representatives of both CAHDI and UNIDROIT Member States, with the aim of exploring trends in the function of international soft law in international governance. This year's appointment intends to delve into the use of international soft law by domestic courts in their assessment of domestic situations. The aim is to assess whether new trends can be detected in the way domestic courts approach international soft law, mindful of the fact that any parallelism must be examined in the light of the specificities of each domestic legal order, and whether these could be evidence of new forms of interaction between (international) soft law and (domestic) hard law.

Maria Chiara Malaguti (President, UNIDROIT)  
Ignacio Tirado (Secretary General, UNIDROIT)

***By invitation only***

# PROGRAMME

## 14.30 INTRODUCTORY REMARKS

Prof. Ignacio Tirado – Secretary-General UNIDROIT

Min. Plen. Stefano Zanini – Head of the Service for Legal Affairs, Diplomatic Disputes and International Agreements, Ministry of Foreign Affairs and International Cooperation of Italy

## 14.45 MOST RECENT AND COMPELLING CASES IN DOMESTIC COURTS

Moderator: Prof. Maria Chiara Malaguti – President UNIDROIT

Prof. Jaehong Lee (Professor of Constitutional Law in Ewha Womans University, Seoul)<sup>1</sup>

Prof. Carla Sieburgh (Professor of Private Law in particular the Effects of European Law on National Private Law, Radboud University Nijmegen, and member of UNIDROIT Governing Council)<sup>2</sup>

Prof. Jessica Simor KC (Barrister at Matrix Chambers, UK, Visiting Professor London School of Economics and Goldsmiths Law)

## 16.00 DEBATE

*Representatives of Member States to share country experiences in domestic courts*

## 16.45 CONCLUDING REMARKS

# The aim of the High-Level Dialogues



The main aim of these yearly events is to **enhance the dialogue between Foreign Ministry Legal Advisors and other Governmental legal experts** in identifying common experiences and concerns in the field of **public international law-making** and its contemporary configurations. The practice on **transnational law reform shall hopefully specifically contribute to such debate.**

It is hoped that providing such a platform for discussion and experience sharing in the field may also promote a common understanding of the forms of the law, as well as of its contents, and clarify the tension between law-making and compliance with the law.

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<sup>1</sup> Former Rapporteur Judge at the Constitutional Court of Korea.

<sup>2</sup> Former Judge in the Civil Senate of the Supreme Court of the Netherlands, State Councillor in the Administrative Jurisdiction Division of the Dutch Council of State