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THE LEGAL STATUS AND REGULATION OF DECENTRALIZED AUTONOMOUS ORGANIZATIONS (DAOS) IN PRIVATE INTERNATIONAL LAW

Iryna Sopilko
National Aviation University
Kyiv, Ukraine
https://orcid.org/0000-0001-7670-3157
sopilko8182@edu-knu.com

ABSTRACT. Decentralized Autonomous Organizations (DAOs), novel organizational structures governed by smart contracts on a blockchain, present a profound challenge to established legal paradigms. Designed to be borderless, transparent, and autonomous, DAOs operate in inherent conflict with a global legal system predicated on territorial jurisdiction and centralized authority. This article provides an exhaustive analysis of the treatment of DAOs under private international law (PIL). It begins by examining the fundamental crisis of legal categorization, where „unwrapped" DAOs face a default classification as general partnerships, imposing unlimited personal liability on their members—a risk starkly illustrated by landmark litigation such as CFTC v. Ooki DAO. The analysis then delves into the core tenets of PIL, demonstrating the inadequacy of traditional connecting factors for determining jurisdiction and applicable law in a decentralized context and exploring the formidable challenges of enforcing judgments against on-chain assets. Through a comprehensive comparative analysis of emerging regulatory frameworks in the United States (Wyoming), the European Union (MiCA), Switzerland (DLT Act), Liechtenstein (Blockchain Act), and the United Kingdom (Law Commission proposals), this article maps the fragmented global response. It argues that the adoption of „legal wrappers" is not merely a corporate structuring choice but a strategic PIL maneuver to preempt legal uncertainty. The article concludes that the legal landscape is evolving from a simple question of „what is a DAO?" to a complex, second-generation PIL problem of „which DAO law applies?" It posits that the future lies not in the triumph of code over law, but in a hybrid synthesis, and calls for international cooperation to develop coherent principles that can guide the integration of these transformative entities into the global legal order.
Keywords: Decentralized Autonomous Organization (DAO), Private International Law, Conflict of Laws, Legal Personality, Blockchain, Smart Contracts, Comparative Law

1. INTRODUCTION

1.1. Defining the DAO: From Technical Construct to Economic Actor

A Decentralized Autonomous Organization (DAO) represents a paradigm shift in human coordination, leveraging blockchain technology to create internet-native entities governed by transparent, automated rules (Braumiller Law Group, 2025; Transak, n.d.). At its core, a DAO's constitution is not a paper document but a set of smart contracts—self-executing computer programs deployed on a blockchain, most prominently Ethereum (Braumiller Law Group, 2025; Horowitz, 2022). These contracts define the organization's operational logic, from treasury management to governance proposals, and execute them immutably

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without the need for traditional intermediaries (Investopedia, 2025.; International Journal of Fundamental and Mobile Research, 2024). Governance is typically exercised by a distributed network of token-holders who vote on proposals, creating a structure that aims to be more democratic, participatory, and transparent than the hierarchical command-and-control models of conventional corporations (Braumiller Law Group, 2025; Nomoretax.eu, n.d.).

This structure is not merely a technical curiosity; it is an attempt to solve fundamental economic problems of the firm, particularly the principal-agent dilemma (Boss, 2023; Allen, 2020). By encoding rules in transparent, auditable code and automating their execution, DAOs seek to minimize agency costs, reduce the potential for managerial malfeasance, and align the incentives of all participants (Davidson, 2025; Kaal, 2020). This technological architecture has enabled DAOs to evolve from niche experiments into significant economic actors that manage treasuries worth billions of dollars, fund projects, and coordinate the activities of thousands of pseudonymous members across the globe (Rijmenam, 2025; Si-Wright, 2021; Patel, 2021).

The ideological foundation of the DAO is a belief in lex cryptographica, or „code is law" (Fiedler, 2025). This principle posits that the rules embedded in the smart contract are the supreme law of the organization, and their automated execution constitutes the final and binding resolution of any interaction (De Filippi & Hassan, 2021). This ethos was infamously articulated during the 2016 hack of „The DAO," the first major organization of its kind, where the attacker claimed their actions were legitimate because they were permitted by the rules of the code. This perspective places the DAO's internal, self-contained system of order in direct opposition to the external, state-based legal systems (lex fori) that have historically governed all forms of commercial and social organization.

1.2. The Inherent Conflict: Borderless Organizations in a World of Borders

The foundational conflict animating the legal analysis of DAOs stems from this very design. DAOs are conceived to be borderless and jurisdictionally agnostic, with members contributing capital and casting votes from Tokyo, Berlin, and Buenos Aires simultaneously (Wright, 2021; Rijmenam, 2025). Their assets are on-chain, and their participants are often pseudonymous, identified only by a wallet address (Gonzalez, 2023). However, the global legal system remains fundamentally Westphalian, built on principles of state sovereignty and territorial jurisdiction (Fiedler, 2025; Bana & Osmanourtashi, 2023). Law is local (Rijmenam, 2025).

This mismatch creates immediate and severe friction whenever a DAO attempts to interact with the off-chain world (Guskow Cardoso, 2023). How can a disembodied, on-chain entity open a traditional bank account, lease office space, hire an employee, or enter into a service agreement with a software vendor? (Rijmenam, 2025; Morris, Manning & Martin, LLP, 2023). These actions require legal personality—the capacity to hold rights and assume obligations—a status conferred not by code, but by state law (Governance Lab, 2022). More critically, when disputes arise—a breach of contract, a tort, or regulatory action—courts and government agencies must determine if they have jurisdiction over the DAO and which state's laws should apply (Chissick, 2024). The DAO's ambition to operate beyond borders inevitably collides with the reality that legal rights and liabilities are enforced within them. This collision is not merely a technical or legal puzzle but a deeper philosophical clash. It pits the techno-libertarian vision of a self-sovereign, code-governed order against the centuries-old framework of state-centric law that underpins the global economy. Courts and regulators, as enforcement actions by the U.S. Securities and Exchange Commission (SEC) and Commodity Futures Trading Commission (CFTC) demonstrate, are unwilling to accept the „code is law" premise. They view DAOs not as abstract technology but as associations of people engaged in a common enterprise, thereby bringing them squarely within the ambit of existing legal frameworks for securities, commodities, and corporate law (Braumiller Law Group, 2025; Morris, Manning & Martin, LLP, 2023; Thomson Reuters Practical Law, 2022).

1.3. Research Aim and Structure of the Article

The objective of this article is to conduct a comprehensive analysis of the legal status and regulation of DAOs through the lens of private international law (PIL). It seeks to dissect the profound challenges that these novel entities pose to the core PIL tenets of legal personality, jurisdiction, applicable law, and the recognition and enforcement of judgments. By examining the default legal treatment of DAOs, analyzing key judicial precedents, and providing a comparative overview of emerging regulatory frameworks, this article aims to map the current legal frontier and offer insights for DAOs, legal practitioners, and policymakers navigating this uncertain terrain. The article is structured as follows. Section 2 examines the DAO's struggle for legal subjectivity, analyzing its default classification as a general partnership and the rise of the „legal wrapper" as a pragmatic response. Section 3 delves into the specific conflict of laws problems, assessing the inadequacies of traditional rules for determining jurisdiction, choice of law, and enforcement of judgments. Section 4 presents a detailed comparative analysis of the divergent regulatory approaches being pioneered in the United States, the European Union, Switzerland, Liechtenstein, and the United Kingdom. Finally, Section 5 synthesizes the findings, identifies persistent legal gaps, provides recommendations, and offers a forward-looking perspective on the future synthesis of code-based and law-based governance.

2. THE DAO AS A LEGAL SUBJECT: A CRISIS OF CATEGORIZATION

The threshold question for any legal analysis of a DAO is its status as a legal subject. Without a recognized legal form, a DAO exists in a state of legal ambiguity, unable to formally interact with the off-chain world and exposing its participants to significant, often unforeseen, liabilities. This section explores the default legal classification of unstructured DAOs, the transformative impact of recent judicial precedents, and the emergence of the „legal wrapper" as a necessary, albeit imperfect, solution.

2.1. The „Unwrapped" DAO: Defaulting to General Partnership and Unlimited Liability

When a group of individuals or entities associate to pursue a common objective for profit without incorporating a formal legal entity, most legal systems around the world apply a default classification: the general partnership (Nomoretax.eu, n.d.; Governance Lab, 2022; Schillig, 2022). An „unwrapped" DAO—one that operates purely on-chain without a corresponding legal entity—fits this description alarmingly well. It involves an association of two or more persons (token-holders) who pool assets (cryptocurrency) in a common enterprise (the DAO's protocol) with an expectation of profit, whether through appreciation of the governance token, fee-sharing, or other economic benefits (Schwinger, 2023).

This default classification carries a devastating legal consequence: joint and several unlimited personal liability for all members (Nomoretax.eu, n.d.; Morris, Manning & Martin, LLP, 2023; Aurum Law Firm, 2025). Under partnership law, each partner is personally liable for the entirety of the partnership's debts and obligations, regardless of their individual contribution or level of involvement (Norton Rose Fulbright, 2023). This means a token-holder who casts a single governance vote could potentially be held responsible for a catastrophic protocol failure, a regulatory fine, or a breach of contract claim against the DAO, with their personal assets at risk (Nomoretax.eu, n.d.; Norton Rose Fulbright, 2023). This stands in stark contrast to the principle of limited liability, which is the bedrock of modern corporate law and a crucial feature for encouraging investment and risk-taking by shielding shareholders' personal assets from corporate debts (Governance Lab, 2022). The specter of unlimited liability fundamentally undermines the DAO's ability to attract broad participation and scale effectively, as the risk for individual members becomes untenable (Nomoretax.eu, n.d.).

2.2. Judicial Precedent: The Implications of CFTC v. Ooki DAO and Lido DAO

What was once a theoretical concern for legal scholars became a concrete, judicially-enforced reality with a series of landmark cases in the United States. The most significant of these is CFTC v. Ooki DAO, where the U.S. Commodity Futures Trading Commission brought an enforcement action against a DAO operating a decentralized trading protocol (Hunton Andrews Kurth LLP, 2023). The defendants argued that the DAO was merely a „technological tool" and not a suable entity (Schwinger, 2023; Davis Wright Tremaine LLP, 2023). The court emphatically rejected this argument. Applying California law, it held that Ooki DAO was a suable „unincorporated association"—a legal category functionally equivalent to a general partnership for the purposes of litigation and liability (Schwinger, 2023; U.S. Department of the Treasury, 2023; Frost Brown Todd, 2024). The court reasoned that the DAO was composed of token-holders who joined by mutual consent for the common purpose of governing the protocol, thus meeting the criteria for an association (Frost Brown Todd, 2024).

The Ooki DAO case was transformative for several reasons. First, it established a clear precedent that decentralization and pseudonymity do not create a shield from legal accountability (Schwinger, 2023; Matsumura & Hopkin, 2025). Second, the court demonstrated remarkable procedural flexibility, permitting the CFTC to serve legal process on the DAO by posting the summons in its online help chat box and discussion forum (Matsumura & Hopkin, 2025; Ashurst, 2023; Freeman Law, n.d.). This signaled that courts are willing to adapt long-standing legal procedures to the realities of internet-native organizations, preventing them from evading jurisdiction simply by lacking a physical address or registered agent (Davis Wright Tremaine LLP, 2023; Ashurst, 2023). Ultimately, the court entered a default judgment against Ooki DAO, imposing a monetary penalty and ordering it to shut down its website (Hunton Andrews Kurth LLP, 2023).

The principles established in Ooki DAO were soon reinforced and expanded. In Sarcuni v. bZx DAO (Ooki's predecessor), a court found it plausible that token-holders could be deemed members of a general partnership, facing vicarious liability for the DAO's alleged negligence (Schwinger, 2023). More recently, in Samuels v. Lido DAO, a court allowed a case to proceed on the theory that Lido DAO was a general partnership and, crucially, that institutional investors who actively participated in its governance could also be considered partners (FMatsumura & Hopkin, 2025). These rulings have sent a clear and powerful message throughout the Web3 ecosystem: without a formal legal structure, a DAO and its members are exposed to severe legal and financial risks. The legal risk of unlimited liability has transitioned from an abstract possibility to a tangible threat, directly precipitating a market-wide shift in behavior.

2.3. The „Legal Wrapper" Solution: A Necessary Compromise?

In direct response to the existential threat of unlimited liability confirmed by cases like Ooki DAO, the „legal wrapper" has emerged as the dominant strategy for risk mitigation (Rijmenam, 2025; Fleming, 2024). A legal wrapper is a traditional legal entity—such as a limited liability company (LLC), a foundation, or an unincorporated nonprofit association—that is established to act as the DAO's interface with the off-chain world (Morris, Manning & Martin, LLP, 2023; Aurum Law Firm, 2025).

The primary benefits of this approach are twofold. First and foremost, it provides a liability shield. By creating an entity with separate legal personality, the DAO's obligations become the responsibility of the entity itself, not its individual members, who are generally protected by a corporate veil of limited liability (Governance Lab, 2022; Chissick, 2024; Aurum Law Firm, 2025). Second, it grants the DAO legal personality, empowering it to engage in essential off-chain activities that are impossible for an unstructured DAO. A wrapped DAO can open a bank account, enter into contracts with service providers, hold intellectual property, and hire employees, thereby bridging the gap between its on-chain operations and the traditional legal and financial systems (Rijmenam, 2025; Morris, Manning & Martin, LLP, 2023). The adoption of legal wrappers has thus moved from a matter of best practice to one of practical necessity for any DAO with significant assets or real-world interactions.

However, the legal wrapper is not a panacea. It introduces its own set of costs and complexities. Establishing and maintaining a legal entity requires administrative effort, legal fees, and compliance with the corporate governance and reporting requirements of the chosen jurisdiction (Rijmenam, 2025; Morris, Manning & Martin, LLP, 2023). Furthermore, it creates a new layer of potential conflict between the DAO's on-chain governance mechanisms and the mandatory legal rules governing its off-chain entity (Fleming, 2024).

2.4. The Enduring Tension Between On-Chain Governance and Off-Chain Law

This leads to the central, unresolved tension of the legal wrapper model. How can a DAO ensure that its on-chain governance—decisions made by a global, pseudonymous community of token-holders—is legally binding on the off-chain entity? For example, if the members of a DAO vote on-chain to approve a grant, what legal mechanism compels the board of directors of its Cayman Islands foundation wrapper to execute that decision? (Rijmenam, 2025; Lawrence & Peltz, 2025).

This requires sophisticated legal engineering. The constitutional documents of the legal wrapper must be carefully drafted to subordinate the discretion of its formal managers (e.g., directors or trustees) to the outcomes of the DAO's on-chain voting process. This is often achieved through a combination of contractual obligations, trust arrangements, or the use of specialized service providers who agree to act as delegates bound by smart contract outputs (Lawrence & Peltz, 2025). Yet, this linkage is fragile. Mandatory provisions of corporate law in the jurisdiction of incorporation—such as directors' fiduciary duties to the legal entity itself—cannot always be completely contracted away and may conflict with a token-holder vote that could be detrimental to the entity. This enduring tension reveals that the legal wrapper is an imperfect patch, a pragmatic compromise that reduces liability but does not fully resolve the fundamental philosophical and structural conflict between decentralized, code-based governance and centralized, law-based corporate forms.

3. CONFLICT OF LAWS IN A DECENTRALIZED WORLD

Private international law, or conflict of laws, provides the framework for resolving cross-border legal disputes by addressing three fundamental questions: which court has jurisdiction to hear the case, which law should be applied to resolve the dispute, and whether a judgment from one jurisdiction will be recognized and enforced in another. DAOs, by their very nature, challenge the foundational assumptions of this framework, which is built upon geographically-defined connecting factors that are often meaningless in a decentralized context.

3.1. Determining Jurisdiction: The Search for a Sufficient Nexus

The first pillar of PIL, jurisdiction, is traditionally determined by connecting a dispute to a specific territory. Common bases for jurisdiction include the defendant's place of domicile, the place of incorporation or principal place of business for a corporation, or the location where a contract was performed or a tort occurred (Chissick, 2024). For a DAO, these anchors are often non-existent. It has no physical headquarters, its „members" are globally distributed and pseudonymous, and its operations occur on a distributed ledger with no single geographic locus (Fiedler, 2025; Bana & Osmanourtashi, 2023).

In the face of this challenge, courts are beginning to forge new jurisdictional tests based on a more flexible concept of „sufficient nexus" or „minimum contacts" (McGuire, 2023). The Ooki DAO case is again instructive. The California court asserted personal jurisdiction over the DAO not based on a single, traditional factor, but on a collection of activities that purposefully connected it to the jurisdiction. These included offering its trading protocol to U.S. residents, having U.S.-based token-holders who actively participated in governance from within the U.S., and having its founders conduct promotional activities in the U.S. (Matsumura & Hopkin, 2025; Ashurst, 2023). This approach mirrors the „targeting" or „effects-based" doctrines developed for internet-related disputes, where a court may assert jurisdiction if a party has intentionally directed its activities at the forum state and the litigation arises from those activities (McGuire, 2023).

While this adaptive approach prevents DAOs from being entirely „enforcement-proof," (Davis Wright Tremaine LLP, 2023) it creates its own set of problems. A DAO that is accessible globally could, under this logic, be subject to the jurisdiction of any country where it has users. This raises the specter of concurrent and conflicting litigation in multiple forums, subjecting the DAO to a patchwork of different legal obligations and potential judgments, thereby replacing one form of legal uncertainty with another (Fiedler, 2025).

3.2. Choice of Applicable Law: The Failure of Traditional Connecting Factors and the Search for Alternatives

The second pillar of PIL, choice of law, is even more vexed. Once a court has jurisdiction, it must decide which substantive law to apply. Traditional connecting factors like lex loci contractus (the law of the place where the contract was made) or lex loci delicti (the law of the place where the tort occurred) are wholly inadequate for DAO-related disputes (Nomoretax.eu, n.d.; De Filippi & Hassan, 2021). Where is the „place" of a smart contract executed between two anonymous wallets on the Ethereum blockchain? Where does a „tort" occur if a flawed protocol, developed by a pseudonymous team, causes financial loss to a global user base? (De Filippi & Hassan, 2021).

The inadequacy of these rules has led scholars and practitioners to propose a range of alternative connecting factors. These include:

- The law of the jurisdiction where the core developers are located.
- The law explicitly chosen by the parties, potentially embedded as a choice-of-law clause within the smart contract's code itself.
- The law of the jurisdiction with the most significant relationship to the dispute, which could be determined by the location of the majority of token-holders, the concentration of blockchain nodes, or the location of the DAO's real-world assets (De Filippi & Hassan, 2021; Chissick, 2024; Hovenkamp 2015).

Another approach suggests a „waterfall" of options: first, qualify the DAO under the law of its „place of creation," but this is often impossible to determine for a decentralized project. Failing that, the court may resort to applying the lex fori—the law of the court hearing the case (De Filippi & Hassan, 2021). While providing a practical solution, this approach undermines legal predictability, as the applicable law would depend entirely on where a lawsuit is filed (Walsh et al., 2023).

This is precisely where the strategic value of a legal wrapper becomes most apparent. The decision to incorporate a DAO as, for instance, a Wyoming LLC is not just a corporate law decision; it is a profound private international law strategy. By creating a legal entity in a specific jurisdiction, the DAO is proactively selecting the lex societatis (the law of the place of incorporation) to govern its internal affairs (Wyoming Legislature, 2021). This provides a powerful argument that any internal dispute—such as one concerning member rights, the validity of a governance vote, or the distribution of assets—should be adjudicated under the laws of that chosen jurisdiction. While this does not resolve all external PIL issues (e.g., a tort claim against the DAO in Germany would likely still be governed by German law), it creates a crucial sphere of legal certainty for the organization's internal governance, effectively using corporate law as a tool to solve a vexing conflict of laws problem.

3.3. Recognition and Enforcement of Judgments: Piercing the Veil of Decentralization

The final pillar of PIL—the recognition and enforcement of foreign judgments—presents perhaps the most formidable practical barrier (Hall, n.d.). Even if a plaintiff successfully obtains a monetary judgment against a DAO, enforcing it is another matter entirely. A DAO's treasury typically consists of crypto-assets held in on-chain, multi-signature wallets controlled by a distributed group of pseudonymous key-holders (Investopedia, 2025). There is no central bank to garnish, no corporate headquarters to seize.

Enforcement requires novel and aggressive strategies that pierce the veil of decentralization (Hall, n.d.). Potential avenues include:

1. Targeting Identifiable Participants: As seen in the Ooki DAO and Lido DAO cases, a primary strategy is to hold identifiable founders or significant, active token-holders jointly and severally liable for the judgment against the DAO entity (Matsumura & Hopkin, 2025; Freeman Law, n.d.). This allows creditors to pursue the personal, off-chain assets of these individuals.
2. Compelling Key-Holders: If the identities of the individuals controlling the DAO's multi-signature treasury wallet are known, a court could issue an injunction ordering them to sign a transaction to transfer assets to satisfy the judgment. Failure to comply would result in contempt of court charges.
3. Targeting Off-Ramps: A creditor could seek to intercept assets at the point where they intersect with the traditional financial system. This could involve serving seizure orders on centralized cryptocurrency exchanges where the DAO or its members might attempt to convert the on-chain assets into fiat currency (Hall, n.d.).

These strategies are complex and fraught with difficulty. Identifying pseudonymous actors requires sophisticated blockchain forensics. Cross-border enforcement depends on international cooperation and the recognition of such novel orders under frameworks like the Hague Judgments Convention, which were not designed with digital assets or decentralized entities in mind (Hague Conference on Private International Law, n.d.; Solimine, 2022). The challenge of enforcement underscores the deep-seated difficulties in mapping traditional legal remedies onto the decentralized architecture of a DAO.

4. A COMPARATIVE ANALYSIS OF EMERGING REGULATORY FRAMEWORKS

The global legal response to DAOs has been anything but uniform. A patchwork of regulatory strategies is emerging, ranging from proactive, bespoke legislation in smaller jurisdictions to a more cautious, wait-and-see approach from larger economic blocs. This section provides a comparative analysis of the leading models, highlighting their distinct philosophies and practical implications for DAOs operating in a multi-jurisdictional world.

4.1. The United States Model: Wyoming's Proactive Legislation

The United States, lacking a federal framework for corporate law, has seen individual states become laboratories for DAO regulation. Wyoming has aggressively positioned itself as the preeminent U.S. jurisdiction for digital assets and DAOs.

Wyoming DAO LLC (2021): In 2021, Wyoming became the first jurisdiction in the world to enact a law specifically recognizing DAOs, creating the „DAO LLC" as a new form of limited liability company (Braumiller Law Group, 2025; Wyoming Legislature, 2021; Thomson Reuters Practical Law, 2021). The Wyoming DAO Supplement amends the state's LLC Act with several key provisions tailored to DAOs:

- Legal Personality and Limited Liability: It explicitly grants the DAO legal status as an LLC, providing a corporate veil and limited liability for its members (Governance Lab, 2022; Thomson Reuters Practical Law, 2021).
- Algorithmic Management: It uniquely recognizes the concept of an „algorithmically managed" DAO, where governance can be vested in the underlying smart contracts rather than in human members (Wyoming Legislature, 2021).
- Flexibility in Fiduciary Duties: The law allows a DAO's articles of organization to modify or even eliminate traditional fiduciary duties, deferring instead to the rules encoded in the smart contracts and the implied covenant of good faith and fair dealing (Wyoming Legislature, 2021; Thomson Reuters Practical Law, 2021).
- Upgradeability Requirement: In a nod to practical reality over ideological purity, the law requires that the smart contracts of an algorithmically managed DAO must be „able to be updated, modified or otherwise upgraded," a provision that can be in tension with the blockchain principle of immutability (Braumiller Law Group, 2025; Wyoming Legislature, 2021).

Wyoming DUNA (2024): Recognizing that many DAOs operate for public good or non-profit purposes, Wyoming enacted the Decentralized Unincorporated Nonprofit Association (DUNA) Act in 2024 (Lawrence & Peltz, 2025). The DUNA offers a distinct alternative to the for-profit LLC model:

- Non-Profit Status: It is designed for DAOs with a common nonprofit purpose, explicitly prohibiting passive profit-sharing distributions to members (though reasonable compensation for services is allowed) (Lawrence & Peltz, 2025).
- Direct On-Chain Governance: Its most innovative feature is the direct legal recognition of on-chain governance. A DUNA's bylaws can directly reference token-holder votes as legally binding, creating a more seamless link between code and law than the more complex structures required for LLCs or foundations (Lawrence & Peltz, 2025).
- US Legal Certainty: By providing an onshore, U.S.-based legal entity, the DUNA offers a high degree of legal certainty and legitimacy, allowing DAOs to interact with the U.S. legal and financial systems while avoiding the complexities of U.S. tax reporting for foreign members that can arise with partnership structures (Lawrence & Peltz, 2025).

Wyoming's approach is distinctly prescriptive, creating tailored legal vehicles to attract

DAO formation. This proactive stance is mirrored to varying degrees by other states like Vermont (with its Blockchain-Based LLC), Tennessee, and Utah, creating a fragmented but innovative landscape within the U.S. (Governance Lab, 2022; Freeman Law, n.d.).

4.2. The European Union's Approach: The Regulatory Gap under MiCA

The European Union has taken a fundamentally different, and far more cautious, approach. Its landmark Markets in Crypto-Assets (MiCA) Regulation, which became fully applicable in late 2024, establishes a comprehensive, harmonized framework for crypto-assets across the 27 member states (European Securities and Markets Authority, n.d.; O'Brien & Wu, 2025; Gruca & Janus, n.d.). However, MiCA's focus is on regulating centralized intermediaries, not decentralized protocols (European Central Bank, 2024; Rolo, 2023).

MiCA imposes stringent authorization and conduct-of-business rules on two main categories of actors: issuers of crypto-assets (like stablecoins) and Crypto-Asset Service Providers (CASPs), such as exchanges and custodians (O'Brien & Wu, 2025; European Central Bank, 2024). Crucially, Recital 22 of the regulation states that it does not apply to crypto-asset services „provided in a fully decentralised manner without any intermediary" (Galea 2024; Latka, 2024.). This creates a significant regulatory vacuum for DAOs and Decentralized Finance (DeFi) protocols (European Central Bank, 2024).

The regulation does not define „fully decentralized," leaving it to regulators like the European Securities and Markets Authority (ESMA) to assess on a case-by-case basis (Latka, 2024.; European Securities and Markets Authority, 2023). The implication is that a truly decentralized DAO falls outside MiCA's scope, but this does not grant it legal status. Instead, its legal form (or lack thereof) is left to the disparate national laws of the member states (European Central Bank, 2024; Adıgüzel, 2023). In most EU countries, this would result in a default classification as a partnership with unlimited liability. This deferential approach creates significant legal uncertainty and undermines the goal of a harmonized single market for digital innovation. While ESMA is tasked with studying DeFi for a future review of MiCA, for the foreseeable future, the EU presents a high-risk environment for unstructured DAOs (Ledger Insights, 2023; European Securities and Markets Authority, 2023).

4.3. The Swiss DLT Act: An Adaptive, Non-Prescriptive Framework

Switzerland has pursued a strategy that is neither prescriptive like Wyoming's nor deferential like the EU's, but rather adaptive. Instead of creating a new „DAO law," the Swiss DLT Act of 2021 amended ten existing federal statutes—including the Code of Obligations, the Financial Market Infrastructure Act, and bankruptcy law—to make them compatible with distributed ledger technology (Chambers and Partners, 2025; SDX, 2023).

The cornerstone of this reform is the legal recognition of „ledger-based securities" (Registerwertrechte). This innovation creates a robust legal basis for representing and transferring rights—such as shares, bonds, or other claims—as tokens on a blockchain, with the transfer on the ledger constituting a final and legally effective transfer of the underlying right (Chambers and Partners, 2025; SDX, 2023).

This framework does not create a bespoke „DAO entity." Instead, it provides the legal tools for DAOs to be structured using Switzerland's existing, flexible corporate forms, most notably the „association" (Verein) (Chambers and Partners, 2025). The Swiss association is a highly adaptable legal entity that can be used for both commercial and non-commercial purposes and allows for significant flexibility in defining its governance structure in its articles. By providing clear rules for the tokenized assets that are the lifeblood of a DAO, while allowing organizers to choose from existing, well-understood legal forms, the Swiss approach prioritizes adaptability and integration over the creation of novel, untested structures.

4.4. The Liechtenstein Blockchain Act: The Token Container Model (TCM)

Liechtenstein, another key jurisdiction in Europe's „Crypto Valley," adopted a similarly foundational approach with its 2020 Token and Trusted Technology Service Provider Act (TVTG), commonly known as the Blockchain Act. The TVTG is built around the innovative „Token Container Model" (TCM).

The TCM is a civil law concept that defines a token as a legal „container" capable of holding any conceivable right—be it an ownership right to an asset, a membership right in an organization, a claim for payment, or a governance right. The law dictates that the legal transfer of the token on the blockchain effectuates the transfer of the right contained within it. This technology-neutral model provides exceptional legal certainty and flexibility for any system based on tokenization, which includes virtually all DAOs.

Like Switzerland, Liechtenstein does not offer a specific „DAO" entity type. However, by creating a comprehensive legal framework for the core components of a DAO—its tokens—the TVTG provides a solid and predictable legal foundation. DAO organizers can then „wrap" their organization in one of Liechtenstein's established and flexible legal forms, such as a foundation (Stiftung), knowing that the law will recognize the validity and transferability of the governance and economic rights represented by their tokens. The TVTG also creates a regulatory regime for „Trusted Technology Service Providers," ensuring that key actors in the ecosystem are subject to supervision by the Financial Market Authority (FMA).

4.5. The United Kingdom's Deliberative Path: The Law Commission's Scoping Report

The United Kingdom has opted for a more deliberative and cautious path, led by the Law Commission of England and Wales. In its July 2024 scoping paper on DAOs, the Commission concluded that it was premature to recommend a bespoke legal form for DAOs (Law Commission, 2024). Instead, it put forward several key recommendations:

- No New DAO Entity: The Commission found that the case for a new, DAO-specific legal entity had „not (yet) been made out" (Fleming, 2024). It encouraged DAOs to continue using existing legal forms, such as companies limited by guarantee.
- Review Existing Laws: It recommended a review of the Companies Act 2006 to identify reforms that could make it easier for organizations to leverage DLT for governance, for example, by clarifying rules around digital record-keeping and the legal status of smart contracts in governance processes (Hovenkamp, 2015; Law Commission, 2024).
- Consider a New Non-Profit Form: It suggested further work to determine if a new, flexible, limited liability not-for-profit association would be a useful vehicle for various

organizations, including non-profit DAOs (Law Commission, 2024).

- Review AML Regulations: It called on the government to review anti-money laundering regulations to see if policy objectives could be met in a way more compatible with DLT (Gindis,& Cole, 2025).

This approach prioritizes maintaining the coherence of existing English law and avoiding hasty legislation that might quickly become outdated. It is complemented by the Law Commission's separate, groundbreaking work on having digital assets recognized as a „third category" of personal property, distinct from things in possession and things in action, which would provide a firmer legal foundation for the assets held by DAOs (Law Commission, 2023). However, the price of this prudence is a lack of near-term legal certainty for DAOs operating under English law, leaving them in a similar position to those in the EU, with a high risk of being classified as general partnerships (Dhanani & Hausman, 2023).

The divergent paths taken by these key jurisdictions highlight a global landscape characterized by fragmentation. The following table synthesizes these approaches, offering a clear comparison of their core strategies and implications.

Table 1: Comparative Analysis of DAO Legal Frameworks

Parameter	**United States (Wyoming)**	**European Union**	**Switzerland**	**Liechtenstein**	**United Kingdom**
Legal Instrument	DAO Supplement to LLC Act (2021); DUNA (2024) (Lawrence & Peltz, 2025; Wyoming Legislature, 2021)	Markets in Crypto--Assets (MiCA) Regulation (European Securities and Markets Authority, n.d.; O'Brien, E & Wu, 2025)	DLT Act (amendments to existing laws) (Chambers and Partners, 2025; SDX, 2023)	Token and TT Service Provider Act (TVTG)	Law Commission Scoping Paper (2024) (Law Commission, 2024)
Approach	Prescriptive: Creates bespoke legal forms (DAO LLC, DUNA).	Indirect & Deferential: Regulates CASPs, not DAOs directly. Leaves a gap for "fully decentralized" entities.	Adaptive: Amends existing laws (e.g., corporate, insolvency) to accommodate DLT.	Foundational: Creates a comprehensive civil law framework for tokens (TCM).	Deliberative & Cautious: Recommends study and review before legislating.
Legal Personality	Explicitly granted as an LLC or UNA. (Lawrence & Peltz, 2025; Thomson Reuters Practical Law, 2021)	Not addressed at EU level. Depends on national law of member states (likely none). European Central Bank, 2024)	Granted via existing forms (e.g., Association, Company). (Chambers and Partners, 2025)	Granted via existing forms (e.g., Foundation, Establishment). (Ponti & Partners, n.d.)	Not yet granted. Recommends using existing forms for now. (Fleming, 2024)
Member Liability	Limited liability for members. (Lawrence & Peltz, 2025; Thomson Reuters Practical Law, 2021)	Unlimited personal liability (if deemed a partnership under national law). (Aurum Law Firm, 2025; Adıgüzel, 2023)	Limited liability if a corporate form is used.	Limited liability if a corporate form is used.	Unlimited personal liability if deemed a partnership. (Schillig,2022)

Parameter	United States (Wyoming)	European Union	Switzerland	Liechtenstein	United Kingdom
Key Feature	Legal certainty and "DAO-native" provisions (e.g., algorithmic management). (Wyoming Legislature, 2021)	Harmonized rules for crypto-assets and service providers across the EU. (European Securities and Markets Authority, n.d.)	Creation of "ledger-based securities." High flexibility. (Chambers and Partners, 2025; SDX, 2023)	Token Container Model (TCM) provides clarity on tokenized rights.	Thoughtful, evidence-based approach avoiding premature law. (Law Commission, 2024)
Limitation	US-specific; non--profit constraints for DUNA. (Lawrence & Peltz, 2025)	Creates a regulatory vacuum and uncertainty for DAOs themselves. (Rolo, 2023)	No DAO-specific form, requires fitting into existing structures.	No DAO-specific form, focuses on the token layer.	Lack of near-term legal certainty for market participants. (Law Commission, 2024)

Source: created by the author

5. CONCLUSION: NAVIGATING THE LEGAL FRONTIER

The emergence of Decentralized Autonomous Organizations represents a genuine innovation in organizational structure, one that challenges the very foundations of corporate and international law. As DAOs transition from ideological experiments to potent economic forces, they are being compelled to reconcile their borderless, code-driven nature with a world governed by territorial legal systems. The resulting landscape is one of fragmentation, uncertainty, and rapid, often reactive, evolution.

5.1. Synthesizing the Gaps: A Fragmented and Uncertain Landscape

This analysis has revealed a global legal framework for DAOs that is patchwork at best. On one hand, agile, smaller jurisdictions like Wyoming, Switzerland, and Liechtenstein have moved decisively to create legal certainty, albeit through different means—Wyoming through prescriptive, bespoke entities; Switzerland through adaptive amendments to existing law; and Liechtenstein through a foundational civil law framework for tokens. On the other hand, larger economic blocs like the European Union and the United Kingdom have adopted a more cautious, deliberative posture. The EU's MiCA regulation creates a significant regulatory gap for decentralized entities, while the UK's Law Commission has recommended further study before legislation.

The consequence is a world where the legal status and liability of a DAO's members depend entirely on which, if any, legal framework it has chosen to adopt. An unwrapped DAO operating globally faces the terrifying prospect of being treated as a general partnership, with unlimited personal liability for its members, in any number of jurisdictions. This risk, made tangible by the Ooki DAO precedent, has made the adoption of a legal wrapper a matter of existential importance.

However, this very solution has given rise to a new, more nuanced set of PIL challenges. The initial problem was how the law should treat the singular phenomenon of an unwrapped DAO. Now, the proliferation of different legal wrappers has created a „conflict of wrappers."

A future dispute may no longer be a simple case of a DAO versus a claimant, but a complex multi-jurisdictional puzzle. A court in Germany, for example, might be asked to resolve a dispute involving a Wyoming DUNA with German members holding assets tokenized under Liechtenstein's TCM. This would force the court to navigate a conflict between Wyoming's corporate law, German partnership principles, and Liechtenstein's property law for digital assets. The solutions to the first-generation problem of legal uncertainty have thus spawned a more complex, second-generation private international law problem.

5.2. Recommendations for DAOs, Practitioners, and Policymakers

Navigating this complex frontier requires strategic action from all stakeholders.

- For DAOs: The imperative is clear: do not operate „unwrapped." The choice of a legal wrapper is the most critical strategic decision a DAO can make. This decision should be guided by a careful analysis of the DAO's purpose (for-profit vs. non-profit), its primary geographic nexus of operations and members, and its tolerance for regulatory compliance and tax obligations (Rijmenam, 2025; Lawrence & Peltz, 2025). An offshore foundation may offer tax neutrality and governance flexibility, but a Wyoming DUNA may provide greater legal certainty for a project with a strong U.S. nexus.
- For Legal Practitioners: Advising DAOs requires a rare, interdisciplinary skill set that bridges corporate law, technology law, securities regulation, and private international law. The central task is to engineer robust governance structures that legally and practically link the on-chain voting of token-holders to the off-chain actions of the legal wrapper. This is a field that demands continuous learning and innovation.
- For Policymakers: The current state of jurisdictional competition is unsustainable and creates systemic risk. There is a pressing need for international cooperation to develop harmonized principles for the PIL treatment of DAOs. Organizations like UNCITRAL and the Hague Conference on Private International Law are the appropriate forums for such work (Hague Conference on Private International Law, n.d.). A technology-neutral, principles-based approach that focuses on function over form is more likely to succeed than attempts to craft rigid, technology-specific rules. Harmonizing principles for jurisdiction based on „targeting" and creating clear choice-of-law rules for digital-native entities would be a significant step forward.

5.3. Future Outlook: Towards a Lex Cryptographica or Harmonized International Principles?

The journey of the DAO through the legal world is just beginning. Two possible futures loom. One is a future of divergence, where the on-chain world of lex cryptographica develops its own robust systems of governance and dispute resolution, largely separate from and indifferent to state-based law. The other is a future of convergence, where international legal principles evolve to successfully integrate DAOs into the global legal framework, treating them as another—albeit novel—form of corporate entity.

The current trajectory strongly suggests the latter. The legal system, while slow, is proving to be adaptive, with courts and regulators asserting their authority over decentralized actors. Simultaneously, DAOs are acting pragmatically, adopting legal wrappers to gain the benefits of limited liability and legal personality (Rijmenam, 2025). The future of the DAO is unlikely to be a victory of code over law, or law over code. Rather, it will be a complex, and at times messy, synthesis of both. It will be a hybrid world where the internal logic of a DAO is governed by smart contracts, while its external relationships are governed by the rule of law, with a sophisticated legal and technical interface connecting the two. Forging this hybrid future in a coherent and predictable manner is the great challenge facing the next decade of international law.

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