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ACTIVITY REPORT 2016



EUROPEAN LAW INSTITUTE



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About the European Law Institute



General Information

The European Law Institute (ELI) is an independent non-profit organisation established to initiate, conduct and facilitate research, make recommendations and provide practical guidance in the field of European legal development with a goal of enhancing European legal integration.

The idea of an ELI was inspired by the activities of the American Law Institute (ALI), founded in 1923 and headquartered in Philadelphia, Pennsylvania. Similar to the ALI, the ELI has Fellows, Individual and Institutional Observers.

The Secretariat

Since 2011 the Secretariat of the ELI has been hosted by the University of Vienna. The main tasks of the Secretariat are to coordinate the ELI's day-to-day activities, oversee the management of the ELI's projects, organise events and conferences, support the ELI bodies in fulfilling their tasks and liaise with its current and potential members.



History



- March: founding of the Association for a European Law Institute (ELIA)
- April: initiative of the Robert Schuman Centre for Advanced Studies of the European University Institute (EUI) in Florence, Italy, to create a European Law Institute
- 15–16 April: decision on founding the ELI reached in Athens, Greece
- 31 May: University of Vienna, Austria wins a tender to host the ELI's Secretariat
- 1 June: ELI Inaugural Congress in Paris, France
- 28–29 September: ELI Annual Conference and General Assembly in Brussels, Belgium
- 4–6 September: ELI Annual Conference and General Assembly in Vienna, Austria (including the first Council elections)
- 24–26 September: ELI Annual Conference and General Assembly in Zagreb, Croatia
- February: extension of Agreement with the University of Vienna until 2019
- 2–4 September: ELI Annual Conference and General Assembly in Vienna, Austria (including the second Council elections)
- 7–9 September: ELI Annual Conference and General Assembly in Ferrara, Italy

Membership

There are over 1,000 members of the ELI, representing all branches of law and legal professions. The Institute has three categories of members:

Fellows are natural persons and must actively engage, by their professional, vocational or scholarly activities, in European legal development. They must undertake to speak, vote and participate in activities carried out within the framework of the Association on the basis of their own personal and professional convictions without regard to the interests of particular stakeholders.

Individual Observers are natural persons who take an active interest in European legal development but cannot undertake to speak and vote without regard to the interests of particular stakeholders.

Institutional Observers are legal entities, or natural persons representing organisations, institutions or networks, which are actively involved in European legal development.

Nationalities Represented in 2016

Albania	Estonia	Malta	The United Kingdom
Argentina	Finland	Mexico	Turkey
Australia	France	Moldova	Ukraine
Austria	Germany	New Zealand	USA
Belgium	Greece	Norway	
Bosnia and Herzegovina	Hungary	Poland	
Brazil	Iran	Portugal	
Bulgaria	Iraq	Romania	TOTAL: 52
Canada	Ireland	Russia	
China	Israel	Serbia	
Colombia	Italy	Slovakia	
Croatia	Japan	Slovenia	
Cuba	Latvia	Spain	
Cyprus	Lithuania	Sweden	
Czech Republic	Luxembourg	Switzerland	
Denmark	Macedonia	The Netherlands	

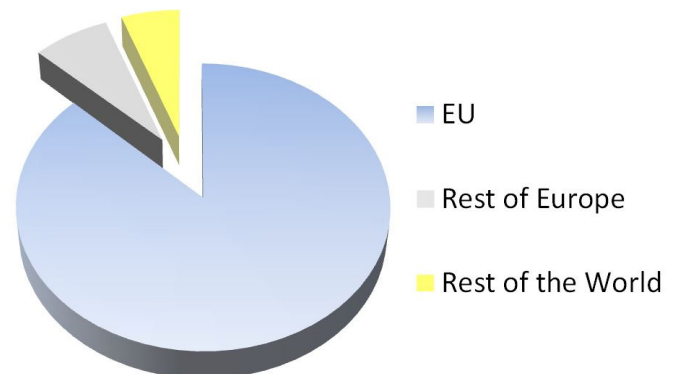
ELI 2016 Members in Figures

Membership	December 2016
Fellows	1182
Individual Observers	73
Institutional Observers	102
Total	1357

16 new Institutional Observers joined the European Law Institute in 2016:

- The Centre for Legal and Economic Research, Centro de Investigação jurídico-Económica;
- The Consiglio Nazionale Forense;
- The EFTA Surveillance Authority;
- The European Law Faculties Association;
- European Women Lawyers Association;
- The Institute of European Mediation and Arbitration;
- The Institute of International Academic and Scientific Cooperation;
- The Paris Bar Association;
- The Portuguese Institute for Legal Research;
- Queen Mary University of London, School of Law;
- The Supreme Court of Singapore;
- The Expert Witness Institute;
- Unione Nazionale delle Camere Civili;
- Uría Menéndez;
- Utrecht University, School of Law; and
- Western University "Vasile Goldis" of Arad, Faculty of Law.

ELI Members Worldwide

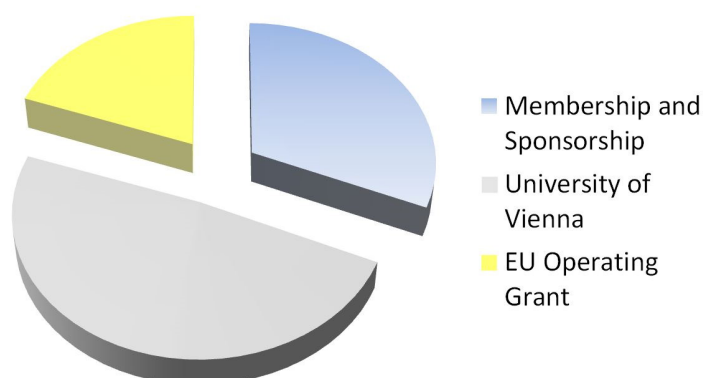


Funding Sources

The main sources of income for the ELI in 2016 were the following:

- As a major milestone, in February 2015 the University of Vienna and the ELI extended their cooperation agreement until 2019, which guarantees that the ELI Secretariat will be kindly hosted by the University of Vienna for another four-year term.
- Membership fees of individual and institutional members.
- The 2016 operating grant awarded within the three-year partnership agreement with the EC DG Justice Programme for the period 2015-2017.

Distribution of Income



EU-Funding 2016

During the year 2016, along with general ELI Secretariat activities, the following projects and events were co-funded through the operating grant:

- Rescue of Business in Insolvency Law
- From Transnational Principles to European Rules of Civil Procedure
- From CESL to the Digital Single Market
- ELI Council Meetings
- ELI Annual Conference
- ELI General Assembly



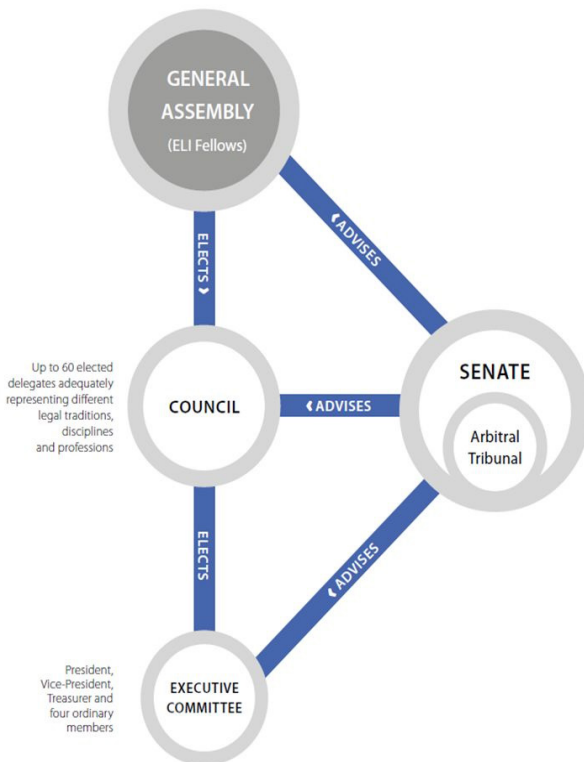
**Co-funded by
the European Union**



Activities of the ELI Bodies

Our Mission

Among ELI's core tasks are to:



- evaluate and stimulate the development of EU law, legal policy and practice, and in particular to make proposals for the further development of the *acquis* and for the enhancement of EU law implementation by the Member States;
- identify and analyse legal developments in areas within the competence of Member States which are relevant at EU level;
- study EU approaches regarding international law and enhance the role EU law could play globally, for instance in drafting international instruments or model rules;
- conduct and facilitate pan-European research, in particular to draft, evaluate or improve principles and rules which are common to the European legal systems; and
- provide a forum for discussion and cooperation between jurists (irrespective of their vocation or occupation), *inter alia*, academics, judges, lawyers and other legal professionals, who take an active interest in European legal development and together represent a broad range of legal traditions.

To accomplish these tasks, the ELI operates on its own initiative. It is also, however, available for consultation with institutions involved in the development of law on a European, international or national level.

The ELI is committed to the principles of comprehensiveness and collaborative working, and strives to bridge the oft-perceived gap between the different legal cultures, between public and private law, as well as between scholarship and practice.

To further that commitment, it seeks to involve a diverse range of experts, reflecting the richness of the legal traditions, legal disciplines and vocational frameworks found throughout Europe.

General Assembly

The General Assembly is the highest ELI body, composed of all the ELI Members. The main functions of the General Assembly are to elect the members of the Council, to approve the accounts and the budget of the Institute, and to approve the results of any ELI projects carried out under the regular procedure. An ordinary meeting of the General Assembly is called every year to discuss the progress made by the Institute and its Committees.

In 2016, the sixth General Assembly was held on 7 September in Ferrara, Italy, at the Faculty of Law of the University of Ferrara, where the Annual Conference later took place.

Arbitral Tribunal

The Arbitral Tribunal settles disputes that may arise between Association members, between Association members and one or several bodies of the Association, or between two or several bodies of the Association, and which concern the question whether or not an act or omission is in conformity with the Articles of Association, Codes of Conduct or Byelaws. It consists of three members of the Senate who are appointed by the Senate for a three-year term.

Members of the Arbitral Tribunal

- Hartkamp, Arthur
- Mance, Lord Jonathan
- Sauvé, Jean-Marc



Council

The Council consists of at least seven and a maximum of 60 members, elected by the General Assembly from among the Fellows in a way adequately representing different legal traditions, disciplines and professions, for the term of four years. The Council is the ELI's main governing body.

The Council may exercise all powers not attributed by law or by the ELI Articles of Association to the General Assembly or to another body of the Association. In particular, the Council is the competent body for the election of the members of the Executive Committee, including the President.

Other functions of the Council members include, but are not limited to: approval of membership applications, deciding which projects the ELI should embark on, appointment of reporters, members of a project team and advisory committee.

The Council meets at least twice a year but also makes decisions electronically on a regular basis. Reasonable costs of traveling and accommodation incurred as a result of ELI Council business are usually reimbursed by the Institute.

Meetings of the Council

12 February 2016: Vienna, Austria
7 September 2016: Ferrara, Italy

For a full list of members, please click [here](#).



Members of the ELI Council during the meeting of 12 February 2016

Executive Committee

The Executive Committee is the ELI's administrative body, appointed by the Council from among the Council members, consisting of the President, the Vice-President, the Treasurer, and four ordinary members.

The Executive Committee

- President: Wallis, Diana
- Vice President: Wendehorst, Christiane
- Treasurer: Gerandt, Johan
- Members: Caponi, Remo; Clément, Marc; Sorabji, John; van Erp, Sief

Meetings of the Executive Committee

11 February 2016: Vienna, Austria
10 June 2016: Vienna, Austria
6 September 2016: Ferrara, Italy
7 September 2016: Ferrara, Italy (joint meeting with Senate)
9 December: Vienna, Austria

Senate

The Senate is a body of persons each of whom has an outstanding reputation, ready to give advice and, where necessary, to settle disputes.

Members of the ELI Senate

- Cassese, Sabino
- Griss, Irmgard
- Hartkamp, Arthur
- Jacobs, Francis
- Mance, Lord Jonathan
- Nemeth, Janos
- Ramberg, Jan
- Sauvé, Jean-Marc
- Skouris, Vassilios (joined in December 2015)
- Wymeersch, Eddy
- Zimmermann, Reinhard

Meetings of the Senate

6 September 2016: Ferrara, Italy
7 September 2016: Ferrara, Italy (joint meeting with Executive Committee)

Projects



Introduction

The ELI project teams worked intensively throughout the year to yield excellent results. The current teams in the projects on insolvency law, civil procedure law, criminal law, digital single market, alternative dispute resolution, migration, family law and on a common European sales law, continued their excellent work. The year 2016 also saw another ELI project developing a Feasibility Study with the Uniform Law Commission (UCL).

Current Projects

ELI Instrument on “Rescue of Business in Insolvency Law”

The aim of the project is to design (elements of) an appropriate legal enabling framework, which includes certain statutory procedures that encourage parties to negotiate solutions in a situation of business distress. In addition, such a framework would include rules to determine in which procedures and under which conditions an enforceable solution can be imposed upon creditors, despite their lack of consent.

The Project continues to make good progress. The Reporters have been tireless in their efforts in consulting with as many different stakeholders as possible while working on their draft report. The first chapters thereof have already started to take shape. An inventory report on International Standards was also updated and reporters presented the draft results of the project at the ELI Annual Conference in Ferrara, Italy.

Conference of the “ELI Business Rescue” Project and the Nordic-Baltic Insolvency Network

Two of the Reporters of the ELI Project on the Rescue of Business in Insolvency Law spoke at a joint Conference of the ELI, the Stockholm Center for Commercial law and the Nordic-Baltic Insolvency Network held in Stockholm, Sweden.

The Conference’s aim was to discuss and consider the newly finalised Nordic-Baltic Recommendations on Insolvency Law, drafted by the Nordic-Baltic Insolvency Network. These recommendations are the product of an ambitious attempt at regional

harmonisation of European Insolvency Law. The Conference was a welcome opportunity for the Reporters to discuss their findings with a group of specialists from a number of EU countries.



From left to right: Bob Wessels, Johan Gernandt and Stephen Madaus

Insolvency Law and Business Rescue Conference and Workshop

Over 30 academics, practitioners and judges participated in the ELI Business Rescue Conference, which took place on 16–17 November 2016 in Leiden, The Netherlands. Two of the Reporters of the ELI Project on Business Rescue in Insolvency Law discussed with other experts, foremost judges, insolvency and restructuring regimes in Europe as well as the draft recommendations of the Business Rescue Project.

Project Meetings

Stakeholders Meeting on Insolvency Matters in Brussels, Belgium

Date: 7 April 2016

Stakeholders Meeting on Insolvency Matters in Brussels, Belgium

Date: 27 May 2016

Project presentation at the ELI 2016 Annual Conference in Ferrara, Italy

Date: 8 September 2016

Presentation at INSOL Europe Academic Forum in Cascais, Portugal

Date: 22–25 September 2016

ELI-UNIDROIT Joint Instrument “From Transnational Principles to European Rules of Civil Procedure”

In 2004, the ALI and the International Institute for the Unification of Private Law (UNIDROIT) adopted and jointly published the Principles of Transnational Civil Procedure. The aim of the work was to reduce uncertainty for parties litigating in unfamiliar surroundings and promote fairness in judicial proceedings through the development of a model universal civil procedural code. The ELI and UNIDROIT cooperation aims at adapting the ALI-UNIDROIT Principles from a European perspective in order to develop European Rules of Civil Procedure.

The ELI at the Erasmus Law School, “From Common Rules to Best Practices in European Civil Procedure” Conference

On 25–26 February 2016, the Erasmus Law School, Rotterdam, and the Max Planck Institute, Luxembourg, organised a Conference on the harmonisation of European civil procedural law. The ELI was strongly represented at the Conference; many members of its joint project with UNIDROIT on the development of European rules of civil procedure attended.

Conference on “New Hungarian Civil Procedure Act and the Development of European Rules of Civil Procedure” in Budapest, Hungary

On 30–31 May, the Hungarian Academy of Justice and the Supreme Court hosted a Conference devoted to the topic of civil procedural law in the Hungarian legal system, and under the ELI-UNIDROIT draft rules of civil procedure, which over 90 esteemed legal experts attended.

The structure of the Conference was organised along the five initial topics of the ELI-UNIDROIT project, which allowed an in-depth presentation of the work of each of the working groups as well as of the respective parts of the New Hungarian Procedure Act. The event proved fruitful for both ELI-UNIDROIT working parties and Hungarian experts.

Presentation at ELI Annual Conference 2016

Ferrara, Italy

Date: 8 September 2016

Steering Committee Meetings

Joint meeting of the ELI-UNIDROIT Steering Committee with the Reporters and Working Group Members in Rome, Italy

Date: 21–22 April 2016

Topics Discussed: the WG presented their preliminary findings.

Joint meeting of the ELI-UNIDROIT Steering Committee with the Reporters, Advisers and Observers of the Project in Vienna, Austria

Date: 21–22 November 2016

Topics Discussed: the draft rules of civil procedure developed by the Working Groups on ‘Access to information and evidence’, ‘Provisional and protective measures’, and ‘Service and due notice of proceedings’.

2016 Working Group Meetings

WG “Res Judicata and lis pendens”

Date: 4–5 February, Luxembourg, Luxembourg

Date: 13–14 October, Padova, Italy

WG “Obligations of Parties, Lawyers and Judges”

Date: 11–12 February, Pavia, Italy

Date: 26–27 May, Dubrovnik, Croatia

Date: 9–10 September, Pavia, Italy

Date: 4–5 November, Paris, France

WG “Service and Due Notice of Proceedings”

Date: 1 April, Athens, Greece

WG “Access to Information and Evidence”

Date: 7–8 April, Madrid, Spain

WG “Judgments”

Date: 15 June, Freiburg, Germany

WG “Provisional and Protective Measures”

Date: 8 September, Ferrara, Italy

Date: 11 November, Rotterdam, The Netherlands

Round of WG meetings and a joint meeting with the WG “Structure”

Date: 20–22 November, Vienna, Austria



Steering Committee Members from left to right: John Sorabji, Remo Caponi, José Angelo Estrella Faria, Diana Wallis, Anna Veneziano and Rolf Stürner at the joint meeting in Rome, Italy, 21–22 April

ELI Statement “From CESL to the Digital Single Market”

The aim of the project is to provide constructive criticism and suggestions on how to improve the two proposals on sales law in the Digital Single Market introduced by the European Commission, and later on, to develop more detailed legislative recommendations in this area. The project is closely linked to and builds on previous work done by the ELI on the Commission’s Common European Sales Law (CESL) proposals, which had direct influence on the proposal of the EU Parliament.

ELI Conference on “New Rules for Contracts in the Digital Single Market – What’s in it for Consumers and Businesses in Europe?”

Nearly 100 top legal experts from Europe and beyond gathered in Vienna to discuss the three legislative proposals that the European Commission introduced under its Digital Single Market strategy on 9 December 2015. These proposals represent the first material steps towards a modern contract law regime for digital content and online sales across the EU.

The Conference, organised by the ELI provided the European legal profession with the first opportunity to discuss and consider the substantial impact that these new Digital Single Market instruments are likely to have. Wolfgang Brandstetter, Austrian Federal Minister of Justice underlined in his welcoming address that the ELI had made a great contribution in organising the event allowing for a first exchange of expert views in this regard.

Among the speakers were Dirk Staudenmayer from the European Commission, who emphasised that there is a need for harmonisation of contract law and that the priority for the Commission in that process was to protect consumer rights, while at the same time encourage cross-border sales. Other speakers included representatives from international organisations, such as Luca Castellani from the United Nations Commission on International Trade Law (UNCITRAL) and Ursula Pachi from the *Européen des Unions de Consommateurs* (BEUC), as well as distinguished members of the academia and leading practitioners.

The presentations at the Conference focused on

a number of the most important improvements and concerns that the proposals raise. As stated by Lord John Thomas, Lord Chief Justice of England and Wales, these instruments are the first in a long time that slip through the chains of the past, but like any new venture, first proposals cannot be perfect. In that spirit the speakers at the Conference provided a lot of constructive suggestions on how the proposals could better reach their aim and how gaps and overlaps in legislation could be avoided.



Participants at the Conference

Project Meetings

Working Group meeting in London, UK

Date: 9 January 2016

Topics Discussed: the European Commission’s publication of legislative Proposals under its Digital Single Market strategy.

Working Group meeting in Vienna, Austria

Date: 29–30 March 2016

Topics Discussed: Draft Statement

Project presentation at the ELI 2016 Annual Conference in Ferrara, Italy

Date: 6–7 September 2016

Topics Discussed: key conclusions of the Statement and its most important results.

The ELI Statement on the European Commission’s Proposed Directive on the Supply of Digital Content to Consumers [COM (2015) 634 final] was approved by the ELI Council on 7 September 2016, which marked the conclusion of the Project.

[ELI Statement on the European Commission’s Proposed Directive on the Supply of Digital Content to Consumers](#)

ELI Instrument on “Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law”

The project aims at developing a new legal framework for the prevention and resolution of conflicts of exercise of jurisdiction. The Working Group carried out a comparative study of different national provisions concerning conflicts of law in EU Member States. Based on the results of this work, and also taking existing research into account, the Group conducted an analysis of the existing means by which conflicts of jurisdiction are prevented and resolved. Following that, the project moved onto the second developmental stage in which a new legal framework was elaborated.

Such a framework will serve the interests of the good administration of justice in a broader sense and could avoid the random and arbitrary effects of the principle of *ne bis in idem*. It will also provide a procedural framework that considers and balances all relevant interests. Finally, the framework can provide added value with regard to citizens’ rights and a reasonably foreseeable forum. The framework will prevent multiple prosecutions of the same crime, and, on the other hand, prevent a failure to prosecute in any jurisdiction.

Training Seminar on “Conflicts of Jurisdiction in Cross-Border Criminal Proceedings”

On 12–13 May, the Academy of European Law (ERA) organised a training seminar on Conflicts of Jurisdiction in Cross-Border Criminal Proceedings. The event took place in Trier, Germany, and covered some of the currently most topical issues such as the pros and cons of the EU’s legal framework on conflicts of jurisdiction, special regulations for extradition, the European Arrest Warrant and the European Investigation Order, as well as transfer of criminal proceedings and identifying parallel investigations within the EU.

Among esteemed speakers were Katalin Ligeti and John Vervaele, Project Reporters of the ELI project on “Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law”. ERA’s event was a perfect opportunity to present the recent developments in this ELI project and to further deliberate on the principle of *ne bis in idem* in the context of the EU acquis and the case law of the Court of Justice of the European Union (CJEU).



Project Meetings

The Project Team meets in Luxembourg, Luxembourg

Date: 21–22 June 2016

Topics Discussed: identification of three groups of possible regulatory approaches, or normative models, that can be used to prevent conflict of jurisdiction in criminal law.

Project presentation at the ELI 2016 Annual Conference in Ferrara, Italy

Date: 8 September 2016

The finalisation of the Project took place at the of 2016 and will be put to a vote in 2017.



ELI Instrument on “Empowering European Families: Towards More Party Autonomy in European Family and Succession Law”

The project aims at reducing obstacles faced by international families and at facilitating free movement of citizens by providing better certainty and predictability of results and reducing the costs of litigation in matters of family and succession law. It also aims at promoting the use of family mediation in the EU.

Public Workshop of the ELI Project on “Empowering European Families”

On 14 June the Working Team of the ELI Project “Empowering European Families: Towards More Party Autonomy in European Family and Succession Law” presented the interim results of the project at the Public Workshop entitled “Choice of law and choice of court for family related disputes” in Vienna, Austria.

The project was presented to the participants by Christiane Wendehorst and Wendy Schrama, two of the three project leaders. A representative of the EU Commission, Mr Wolfgang Bogensberger, introduced the most recent legislative developments in the area of Family Law at EU level.

Other esteemed European experts in the field of international private and family law discussed topical issues such as the law and jurisdiction applicable to divorce and legal separation as well as to property relations, maintenance and pension rights.

Professor Bea Verschraegen from the University of Vienna, and Professor Elena Bargelli from the University of Pisa, have presented their critical analyses of the draft template of the Model Agreement for Married Couples.

The aim of the Workshop was to present the first results of the ELI project to the wider public, to receive constructive criticism concerning the initial outputs of the project as well as to further deliberate on the possibilities of improving the legal situation of international couples in the EU. On 6–8 December, Workstream 1 was discussed in Utrecht, the Netherlands, and so was Workstream 3 on 14–16 December.



Participants of the Public Workshop

Project Meetings

The Working Team met for the first time in Vienna, Austria

Date: 11 January 2016

Topics Discussed: finalisation of the questionnaire for Workstream 1.

The Working Team met for the second time in Utrecht, the Netherlands

Date: 21–22 March 2016

Topics Discussed: national Reports received for Workstream 1.

The Working Team met for the third time in Utrecht, the Netherlands

Date: 10–12 April 2016

Topics Discussed: national Reports received for Workstream 1.

The Working Team met for the fourth time in Vienna, Austria

Date: 13 June 2016

Topics Discussed: finalisation and discussion of the draft templates on the choice of court and choice of applicable law and the evaluation of the outcome of the national reports.

Project presentation at the ELI 2016 Annual Conference in Ferrara, Italy

Date: 8 September 2016

Topics Discussed: presenting a progress report and discussing the draft agreement template developed by the team.

ELI Statement on “Detention of Asylum Seekers and Irregular Migrants and the Rule of Law”

The ELI project on “Detention of Asylum Seekers and Irregular Migrants and the Rule of Law” focuses on identifying all due process standards and material law, including conditions for detention, and on enhancing the implementation of existing EU law in this field. The intended outcome is a user-friendly and practical tool for judges in EU Member States to use in their daily work.

The project team members, working on the Statement, are highly experienced, renowned experts representing diverse geographical and professional environments, including the CJEU, the European Court on Human Rights (ECtHR), national courts and academia.

The ELI project aims to contribute to an effective implementation of due process standards and material conditions for detention based on an integrated approach in respect of EU secondary law, case law of the CJEU and case law of the ECtHR in judicial practices of the Member States. The final product of this project will be a user-friendly and well-referenced checklist of all due process standards and material law on detention for the competent judges

The ELI Project on “Detention of Asylum Seekers and Irregular Migrants and the Rule of Law” presented at the Annual Conference on European Migration Law 2016

On 16 June Bostjan Zalar, Chair of the ELI Project on “Detention of Asylum Seekers and Irregular Migrants and the Rule of Law” presented the interim progress and outline of the project at the Annual Conference on European Migration Law 2016 organised by ERA in Brussels, Belgium.



Project Meetings

Project presentation at the ELI 2016 Annual Conference in Ferrara, Italy

Date: 9 September 2016

Topics Discussed: judicial dialogue between CJEU, ECtHR and national courts; Project’s objective, structure, scope, potential addressees and the plan concerning the dissemination.

Second Project Team Meeting in Vienna, Austria

Date: 6 June 2016

Topics Discussed: interplay between EU Law, the European Convention on Human Rights (ECHR) and national law.

First Project Team Meeting in Vienna, Austria

Date: 21 April 2016

Topics Discussed: structure of the Statement, review the first part of the draft, detention as regulated by EU secondary law, European Convention of Human Rights’ standards and national laws.

New Projects

ELI-ENCJ Statement on “The Principled Relationship of Formal and Informal Justice through the Courts and Alternative Dispute Resolution”

Over the past 40 years, there has been a significant growth in, and use of, alternative forms of dispute resolution (ADR) throughout Europe. There are currently three main ADR instruments in force in the EU (‘the ADR instruments’).

The ELI embarked on a joint project entitled “The Principled Relationship of Formal and Informal Justice through the Courts and Alternative Dispute Resolution” with the European Network of Councils for the Judiciary (ENCJ), which was approved by the ELI Council on 12 February 2016.

The focus of the project is on examining the development of ADR in Europe, in particular the EU instruments that are in place and how they have been implemented and identifying gaps, overlaps, discrepancies and contradicting provisions. The aim is also to ascertain whether, and to what extent, the ADR systems in individual Member States reduce access to the national justice system. At the same time, the aim is to promote ADR and increase the understanding and awareness of citizens on what measures are available and which ones best suit their needs.

Project Meetings

Project presentation at the ELI 2016 Annual Conference in Ferrara, Italy

Date: 9 September 2016



Participants of the ELI-ENCJ meeting in Brussels, Belgium, on 23 May

Project Team Meeting in Brussels, Belgium

Date: 23 May 2016

Topics Discussed: scope of the project, methodology to be applied and possible outcomes.

Project Team Meeting in Brussels, Belgium

Date: 12 September 2016

Topics discussed: preliminary ideas for consultation paper

Project Team Meeting in Vienna, Austria

Date: 28 November 2016

Topics Discussed: drafting of consultation paper

Potential Projects

ELI Feasibility Study with the US ULC on “Fiduciary Access to Digital Assets”

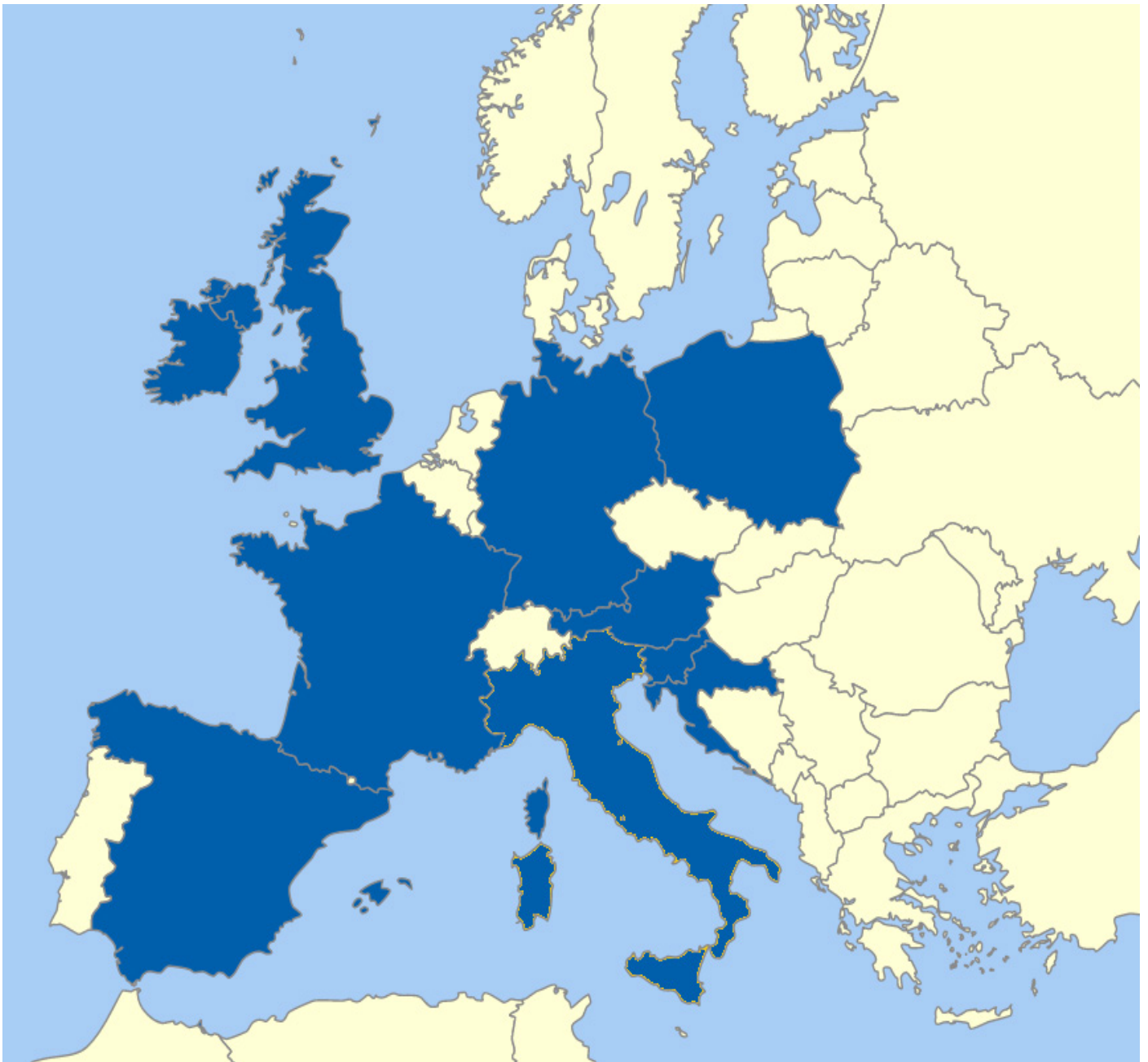
One of ELI’s potential projects concerns the ELI Feasibility study with the US Uniform Law Commission (ULC) on “Fiduciary Access to Digital Assets”. This project focuses on the digital world, specifically on digital assets. The Working Group, composed of ELI experts and experts from the ULC, will prepare a feasibility study to see whether the US Uniform Fiduciary Access to Digital Assets Act (UFADAA) could be redrafted as an European model law.

Vulnerable Adults

Vulnerable adults are adults who are temporarily or permanently unable to protect their welfare and/or their financial affairs. While the life-span of humans grows ever longer, this group also steadily increases. Everyone could potentially end up as a vulnerable adult.

The ELI is currently assessing whether to initiate a project in this field, focusing on suggesting ways to harmonise European legislation in the area, which is fragmented at the moment. The project would also consider issues such as the means of empowering a representative to manage one’s own affairs, welfare and property and what measures need to be taken for such instruments to be recognised in other Member States.

Hubs and SIGs



Hubs

General Information

The number of ELI Hubs is steadily growing. In May the Spanish Hub was launched at the Centre for Political and Constitutional Studies in Madrid, Spain. Following the Spanish Hub launch, in September 2016, the Italian Hub was established at the Faculty of Law of the University of Ferrara, Italy, joining the existing national Hubs from Austria, Croatia, France, Germany, Ireland, Poland, Slovenia, and the UK. Many Hub events took place in 2016, organised by the French, German and Slovenian Hubs among others.

Launch of the Spanish Hub

On 9 May the Spanish legal community accepted a special invitation to celebrate Europe Day at the launch of the ELI Spanish Hub. The event took place in the prestigious Centre for Political and Constitutional Studies, was opened by the Centre's Director, Benigno Pendás, and ELI President, Diana Wallis. President Wallis and Director Pendás highlighted the distinctively challenging moment that Europe faces and strengthened the role that the European legal community has to play in responding to those challenges.

One of the coordinators of the Spanish Hub, Carmen Jerez Delgado, Professor at the Autonomous University of Madrid, Spain, and member of the ELI Council, led the event through its agenda. As an expert, who has been involved in it since its creation. Professor Rafael Illescas, member of the ELI Council, presented the ELI to the audience.

The first round table of the event, focused on the interaction between European law and Spanish law, and counted on the participation of Encarnación Roca Trías, Magistrate of the Spanish Constitutional Court, Théophile M Margellos, President of the Office for Harmonization in the Internal Market (OHIM) Boards of Appeal and Professor Ángel Carrasco Perera, Professor of Private Law at the University of Castilla-La Mancha.

The second round table was chaired by Albert Ruda, co-coordinator of the Spanish Hub, Associate Professor at the University of Girona and member

of the ELI Council. This part of the event included presentations by Juan Luis Requejo, Legal Secretary at the CJEU and Professor of Constitutional Law, and by the Secretary General of the ELI, Dr Rosana Garcíandía, who gave the audience an overview of the way the ELI works on a daily basis. Dr Garcíandía highlighted the importance of counting on an organisation with such an active membership as the ELI, in order for the legal community to respond to all the challenges that had been mentioned during the event.



ELI President Diana Wallis and Carmen Jerez Delgado

Spanish HUB Event on Unjustified Enrichment

On 23 September 2016, the ELI Spanish Hub supported the organisation of a Conference on "Unjustified Enrichment at the Crossroads: History, Comparative View and Proposals of Modernisation". The event was organised by the *Universidad Carlos III de Madrid*.

Launch of the Italian Hub

The tenth ELI national Hub was launched on 9 September 2016 in Ferrara, coinciding with the ELI Annual Conference.

ELI President Diana Wallis chaired the event, which began with a presentation of the Italian Hub, its aims and future plans as presented by Fabrizio Cafaggi, Remo Caponi, Mario Comba and Raffaele Sabato. Following the presentation, a round table gathered Silvana Sciarra, Giovanni Mammone, Roberto Mastroianni, Guido Alpa and Paolo Pasqualis. Professor Sabino Cassese gave the concluding remarks.

The launch was held under the patronage of the Department for European Affairs of the Italian Government and with the support of the *Unione Nazionale delle Camere Civili*.



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Launch of the Italian Hub

ELI Italian Hub Event on “International Commercial Contracts and Arbitration Clauses”

The ELI Italian Hub co-organised a Conference on ‘International Commercial Contracts and Arbitration Clauses’, which took place in Turin on 23 September 2016.

The welcome address was delivered by Mario Comba, President of the Istituto Universitario di Studi Europei (IUSE), one of the ELI Institutional Observers. The Conference was organised in the framework of the Master of Laws in International Trade Law - Contracts and Dispute Resolution.



Launch of the Italian Hub

Hub Events in 2016

ELI French Hub Organises an Event in the General Assembly Hall of the *Conseil d'Etat*

On 8 June, the French Hub of the ELI organised a special event in Paris, France. Prominent guests at the event included Diana Wallis (ELI President) and Christiaan Timmermans (former judge of the CJEU and a founding member of the ELI). The meeting provided an opportunity to discuss current and future projects of the ELI.



ELI German Hub Event on “Uniform Sales Law and Unified Application of Law”

The German Hub of the ELI, the Ernst von Caemmerer Foundation and the Goethe University Frankfurt am Main co-hosted a conference on “Uniform Sales Law and Unified Application of Law” (“Einheitliches Kaufrecht und Vereinheitlichung der Rechtsanwendung”) on 4 March. The event brought together distinguished speakers from several countries and about 60 participants.

In his introductory remarks, Uwe Blaurock pointed to the fact that unification of sales law is an ongoing process which does not stop with respective legislative activities and also includes the efforts of courts, arbitral tribunals and legal academia to secure uniformity in the application of law. The Conference focused on different aspects of these efforts and extended to both the United Nations Convention on Contracts for the International Sale of Goods (CISG) and EU private law.

The first session took on the tradition of Ernst Rabel and Ernst von Caemmerer and related to the role of comparative law as a means to unify laws. Thomas Kadner Graziano analysed recent trends

on a national and international level and made a strong case for the utilisation of comparative law in interpreting both national and uniform sales law. From his point of view, such an approach does not compromise the autonomous interpretation of international sales law. His positions were responsively taken up by the audience in a lively manner.

Experiences with a uniform application of the CISG were the subject of the second session. Franco Ferrari gave an in-depth analysis of different practices of national courts that may compromise an autonomous application.

Thereafter, Burghard Piltz reported on the contribution of arbitral tribunals to a unified interpretation of the CISG. He explained that such a contribution is rather limited due to the focus of arbitral tribunals on solving the dispute at hand.

The third session focused on the perspective of EU sales and contract law. Hannes Rösler analysed different types of “horizontal” cooperation between Member States’ courts in applying supranational law. This cooperation can supplement the preliminary reference procedure to the CJEU in securing a uniform application of law. However, Rösler explained that the full potential of such coordination has not yet been reached which is why he encouraged further steps in this direction.



From left to right: Hannes Rösler, Peter Jung and Christiane Wendeherst

ELI Slovenian Hub organises “Out-of-Court Consumer Dispute Resolution”

The Slovenian HUB of the ELI, together with the National Council of the Republic of Slovenia and the European Centre for Dispute Resolution (ECDR), organised a Conference entitled “Out-of-Court Consumer Dispute Resolution”. The event took place on 10 February 2016.

The Conference was divided into three sections. The first one concerned “The Importance of Out-of-Court Dispute Resolution for the Economy and Consumers” Diana Wallis, President of the ELI, spoke on the impact of EU law on resolving disputes with consumers’ during this part of the Conference.

Representatives of various leading organisations in the field of mediation and dispute resolution gathered during the second section of the Conference. They discussed past experience in the field of out-of-court consumer dispute resolution in Slovenia.

“Challenges and Opportunities of Out-of-Court Consumer Dispute Resolution under the Law on Out-of-Court Consumer Dispute Resolution” was the title of the third section of the Conference. Top experts from consumers and commerce associations discussed the functioning of this important piece of legislation, which has far-reaching consequences for the rights of individuals.



Aleš Zalar, president of ECDR, Katarina Kresal, president of ECDR and Uroš Petohleb, managing director of ECDR. © Milan Skledar

SIGs

General information

Special Interest Groups (SIGs) were established with ELI Council Decision 2015/1 of February 2015, as subject-specific hubs where ELI Members who are experts in a specific field work together to scrutinise the latest legal developments, identify ideas for projects and identify those aspects of the law that could benefit from a contribution of the ELI. The ELI is glad to see that the size of SIGs is growing steadily. SIGs have great potential to become a forum for experts to come together and provide guidance to the ELI in their respective fields.

Communication of SIGs with the ELI Secretariat and with ELI bodies is essential. SIGs will be asked to provide reports on their activities to the ELI Council and regular updates to the Secretariat. Communication within the SIGs is mainly electronic, to enable participation from geographically diverse Members, thus providing an active forum for debate and project development. SIG members are encouraged to use their exclusive section of the MyELI platform to post comments and suggestions and to interact with each other.

SIGs keep their area under on-going critical scrutiny, noting and discussing current developments and, where relevant, drawing the attention of the ELI Executive Committee to any issues that could properly call for a response by the ELI.

There are currently 11 SIGs:

- Administrative law
- Business and Financial law
- Civil law
- Competition law
- Contract, tort and property law
- Digital law
- Dispute resolution
- European Union law
- Family and succession law
- Fundamental Rights law
- Intellectual Property law

How to Join

SIGs are open to all ELI Members at any time. If you are interested in participating, please contact the Secretariat. If you do not find a SIG in the field of law that interests you, please notify us. SIGs should reflect the interests of the ELI membership, so as soon as there is a strong interest in other areas, new groups could be set up.

Events

Event of the Digital Law SIG

Initial research results were summarised in short papers and were presented at the second meeting of the Digital Law SIG, held on 21 January in Vienna (Austria). Attendance at the meeting was high, with many new participants showing an active interest in the work undertaken by the Digital Law SIG and in joining the debate on current legal challenges.

Chaired by Alberto De Franceschi and Reiner Schulze, the meeting began with a short reminder of the SIG's role and contribution to future legal development. Sjef van Erp and Michael Lehmann proceeded to emphasise the considerable legal challenges and fundamental economic importance posed by digital content in general which therefore solidifies the important role to be played by the SIG in the current discourse.

The contributions by the sub-groups, presented by Christoph Busch, Hans Schulte-Nölke, Aneta Wiewiórowska, Erica Palmerini and Andrea Bertolini, provided highly informative insights into the farreaching complexities of each research topic. It soon became apparent that the scope of the implications of digital content requires clear legal solutions that may not only mark a deviation from traditional approaches but will also require further action by the ELI to coordinate analyses of various national solutions.

In one simple sentence, Sjef van Erp summarised the important role the ELI can play: "digital content is by its nature crossborder. The Digital Law SIG encourages ELI members to become actively involved in its work in order to bring Europe closer together."

Event of the Dispute Resolution SIG

The Dispute Resolution SIG held its first face-to-face meeting on 19–20 February in Wiesbaden, Germany. The event was hosted by the Law School of the European Business School (EBS) and received special support of an ELI Member who works as a Professor at EBS, Matthias Weller. The two-day event focused on recent legal developments in Investor-State Dispute Settlement (ISDS), particularly in the context of the Transatlantic Trade and Investment Partnership (TTIP).

The meeting was chaired by one of the SIG's temporary coordinators, Professor Thomas Pfeiffer and the organiser of the event, Professor Matthias Weller. It also featured other prominent experts in the field: Alan Uzelac (Professor, Zagreb University, Croatia), Elizabeth S Stong (Honorable Judge, US Bankruptcy Court), Valentin Réturnaz (Assitant Professor, Galatasaray University in Istanbul, Turkey), Dulce Lopes (Lecturer, University of Coimbra, Spain), Rui Dias (Assistant Professor, University of Coimbra, Spain), Marta Morvillo (Post-Doctoral Researcher, University of Bologna, Italy), Jan K Schaefer (Partner in the Frankfurt office of King & Spalding, Germany) and Patricia Nacimiento (Partner in the Norton Rose Fulbright LLP; Member of the World Bank's International Centre for Settlement of Investment Disputes (ICSID) Panel of Arbitrators).

The fruitful discussions resulted in the SIG's decision to further develop the Group's first endeavour in the area of ISDS and in the agreement on holding SIG meetings on the biannual basis. During the event, members also chose coordinators for the SIG. Professor Thomas Pfeiffer and Professor Stefaan Voet were elected and accepted the task of coordinating the efforts of the group.



Participants of the Wiesbaden Dispute Resolution SIG meeting

Event of the SIG on Business and Financial Law

The Business and Financial Law SIG met in Vienna on 12 February. The meeting was convened at the premises of the ELI Secretariat. Participants discussed how to organise the work of the SIG and how to further proceed in preparing interesting topics for further consideration of the members. They also discussed how the SIG could assist and support the work of the ELI.

The meeting discussed many issues that are currently of interest for the European institutions and for EU business and financial law in general. The SIG decided to focus on five topics and to prepare short scoping papers on these to circulate to all the members of the SIG:

- cross-border mobility of companies within the EU (including transfer of seats and tax evasion)
- the codification and implementation of EU company law rules
- groups of companies – liability and responsibility
- transparency, company disclosure and non-financial reporting
- the role of shareholders in the European corporate governance debate

Event of the Contract, Tort and Property Law SIG

The SIG on Contract, Tort and Property Law took the opportunity to meet for the first time on the margins of the Council Meeting in Vienna on 12 February. During this first physical meeting, discussions focused on the possible paths that this SIG could take. Members of the SIG were invited to write short focus papers (2 pages max) to help direct future endeavours ahead of the next meeting in Ferrara, Italy, which took place during the ELI Annual Conference from 7–9 September.



Participants of the Vienna Contract, Tort and Property Law SIG meeting

Workshop on Internet Jurisdiction: Thinking Outside the Box(es)

The ELI SIG on Intellectual Property Law, together with the Centre for Commercial Law Bond University, Australia, organised a workshop on the topical issue of “Internet Jurisdiction”. Esteemed experts gathered in Vienna, Austria, on 28 November, to discuss ways forward and solutions to the paradox of the territoriality as a principle governing the “borderless” Internet.

The workshop was structured around four thematic sessions. The first one, on the territorial scope of data privacy law online, aimed at discussing the consequences of the “extraterritorial” reach of data privacy laws introduced by more and more countries. A second session on cross-border law enforcement online focused on finding a balance between different interests in cases of cyber-crime. The future of geo-location and the question whether geo-location should be regulated was discussed during the third session. The last session analysed the consequences of online activities – participants examined whether being exposed to various laws and jurisdictional claims, while engaging in online activities, undermines the rule of law.



Participants of the Workshop

Additionally, all SIGs had the opportunity to meet during the ELI Annual Conference in Ferrara, Italy, from 7–9 September.

ELI Annual Conference 2016



ELI Annual Conference 2016

The ELI Annual Conference 2016 took place in Ferrara, Italy, from 7–9 September 2016 and played host to lively debates and discussions. The Conference gathered more than 350 participants from different legal and geographical backgrounds.

The event started in the evening of Wednesday, 7 September, with an opening ceremony. The General Assembly convened in the afternoon of the same day and featured reports from the President, Treasurer and other featured Members of the Institute.

Following this, the project sessions provided ELI members and external participants the opportunity to discuss the most topical legal issues on the European landscape for two full days. Panel sessions were devoted, among other topics, to criminal law, insolvency law, civil procedure, the Digital Single Market, family law and migration.

The ELI was honoured by Koen Lenaerts, President of the CJEU, who gave a keynote speech on 9 September. In addition, Marta Cartabia (Vice-President of the Italian Constitutional Court) delivered a keynote speech during the opening ceremony on 7 September. Together with the ELI President, Diana Wallis, and Vice-President, Christiane Wendehorst, other esteemed guests addressing participants were Dario Franceschini, Italian Minister of Culture, Giorgio Zauli, Rector of the University of Ferrara and Giovanni De Cristofaro, Dean of the Faculty of Law of the University of Ferrara.

During the Conference, the ELI project teams, especially the ones focusing on Rescue of Business in Insolvency Law, civil procedure and criminal law presented the outcome of their work to participants, and chaired fruitful discussions on concrete aspects in these areas of law. Furthermore, the successful event encouraged ELI Bodies and the ELI Secretariat to continue working hard in the organisation of the ELI Annual Conference 2017.

Panel Discussions at the Conference:

- Rescue of Business in Insolvency Law
- Prevention and Settlement of Conflicts of exercise of Jurisdiction in Criminal Law
- From Transnational Principles to European Rules of Civil Procedure
- Empowering European Families: Towards More Party Autonomy in European Family and Succession Law
- Vulnerable Adults and the Conflict of Laws
- Digital Single Market: Discussion Draft of a Directive on Online Intermediary Platforms
- The Principled Relationship of Formal and Informal Justice through the Courts and Alternative Dispute Resolution
- The Tools of the Digital Age in the Service of More Accessible Justice
- Detention of Asylum Seekers and Irregular Migrants and the Rule of Law



Representation



In its sixth year, the ELI has consolidated its position in the European legal environment and is permanently working to establish fruitful cooperation with many European and international institutions and organisations.

External engagements undertaken by the ELI Executive Committee, especially by ELI President Diana Wallis, serve to emphasise the ELI's role in Europe and beyond. The ELI is proud to have participated in the following events at EU Institutions, other international organisations and ELI Institutional Observers:

European Union

Joint meeting of ELI and E-Codex representatives in Vienna, Austria

Date: 20 June 2016

Topics Discussed: improvement of cross-border access of citizens and businesses to legal means in Europe, as well as the interoperability between legal authorities within the EU.

The ELI participated in an Intellectual Property Case Law Conference entitled 'Substantive and Procedural issues of Trade Mark and Design Dispute Resolution' organised by the European Union Intellectual Property Office (EUIPO) in Alicante, Spain

Date: 5–6 May 2016

Topics Discussed: effective administration of litigation proceedings and effective dispute resolution methods.

The ELI participated in a meeting hosted by the Director-General for Justice and Consumers, Tiina Astola, in Brussels, Belgium

Date: 4 May 2016

Topics Discussed: the future of the European Jurists Forum and its close cooperation with genuinely pan-European organisations in the field.

The ELI participated in an European Parliament workshop on new rules for contracts in the digital environment in Brussels, Belgium

Date: 17 February 2016

Topics Discussed: scope of application and general approach of the new rules for contracts in the digital environment.

ELI Institutional Observers

ENCJ General Assembly in Warsaw, Poland

Date: 3 June 2016

Topics Discussed: future of cooperation in the EU Justice Sector.

Other

The ELI featured at XXVII International Federation for European Law Congress in Budapest, Hungary

Date: 18–21 May 2016

Topics Discussed: Transatlantic Trade and Investment Partnership negotiations and their consequences for the EU.

The ELI participated in the launch of the EU-China Legal Affairs Dialogue (LAD) in Beijing, China

Date: 18–22 June 2016

Topics Discussed: legal issues, including digital content, dispute systems and the Internet of things, and the possibility for legislative convergence.

Centre of Mediation of the Notarial Association of Catalonia in Barcelona, Spain

Date: 20 October 2016

Topics Discussed: necessary consolidation of mediation in Europe.

Münster Colloquia on EU Law and the Digital Economy in Münster, Germany

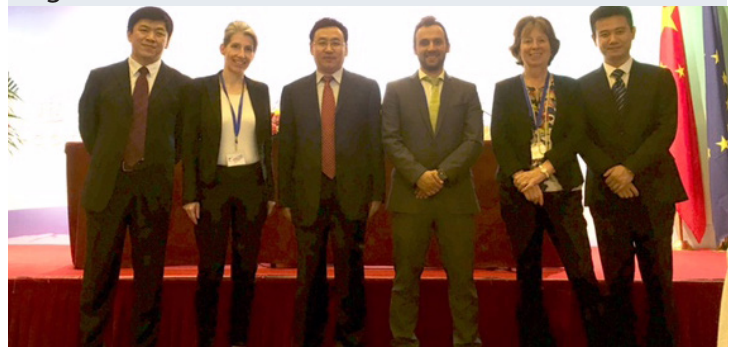
Date: 27–28 October 2016

Topics Discussed: contracts for the Supply of Digital Content.

Second European Forum on Consumer ADR in Madrid, Spain

Date: 3 November 2016

Topics Discussed: implementation of ADR regulation



Christiane Wendehorst and Diana Wallis at the launch of EU-China LAD

European Law Institute

- Pan-European, democratic, membership based organisation
- Uniting prominent jurists of all legal professions
- Aiming to improve the law in Europe
- Carrying out projects with immediate practical application

Members of the ELI can contribute to its projects and gain access to an international network of jurists. Apart from various other activities, the ELI organises its Annual Conference and General Assembly, as well as several social functions – bringing together some of Europe's leading experts in the field of law.

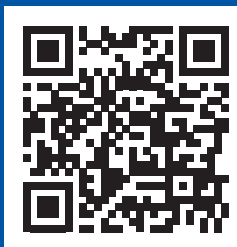
Join ELI

- Fill in an application at www.europeanlawinstitute.eu/membership
- Submit two references from amongst the current members
- Applications are subject to Council's approval
- Membership is subject to annual fee

ELI in Vienna

The Secretariat of the ELI, which is hosted by the University of Vienna, is located in the heart of the Austrian capital, close to the main building of the University, the representation of the European Commission in Austria as well as the information office of the European Parliament.

We cordially invite you to visit us whenever you are in Vienna.



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