

Minutes of the ELI Council Meeting 27 November 2023

Venue: Online

Present:

Chair: Pichonnaz, Pascal (ELI President)

Council Members

Augenhofer, Susanne
Başoğlu, Başak
Beale, Hugh
Bechaalany, Sarah
Bielska-Sobkowitz, Teresa
Calderai, Valentina
Cannarsa, Michel
Cavalier, Georges
Cockerill, Sara
Georgieva, Hristina
Gimeno-Ribes, Miguel
Guercio, Laura
Howells, Geraint
Janssen, André
Jiménez Muñoz, Francisco Javier
Keane, Paul
Koch, Bernhard

Kramer, Xandra
Kubica, María Lubomira
Machnikowski, Piotr
Mader, Oliver
Mazepa, Svitlana
Neumayr, Matthias
Poillot Peruzzetto, Sylvaine
Rodríguez de las Heras Ballell, Teresa
Santos Silva, Marta
Scherpe, Jens
Schroeter, Ulrich G
Schulte-Nölke, Hans
Shirvindt, Andrey
Skrjabina, Anna
Toader, Camelia
Tot, Ivan
Valle, Laura

Ex-Officio Council Members

Pichonnaz, Pascal
Gammeljord, Anne Birgitte

Sirena, Pietro
Vos, Sir Geoffrey

Other Attendees

Gilligan, Paul (for the section on Mt Scopus project)
Jowell Jeffrey (for the section on Fundamental Constitutional Principles project)
Jull Sørensen, Marie (for the section on Algorithmic Contracts project)

Philippe, Denis (for the section on Fundamental Constitutional Principles project)
Shetreet, Shimon (for the section on Mt Scopus project project)
Tridimas, Takis (for the section on Fundamental Constitutional Principles project)

Turenne, Sophie (for the section on Mt Scopus project)

Twigg-Flesner, Christian (for the section on Algorithmic Contracts project)

Wendehorst, Christiane (ELI Scientific Director)

Wortham, Leah (for the section on Mt Scopus project)

Zoll, Fryderyk (for the section on Mt Scopus project)

Members of the ELI Secretariat

Dudek, Tomasz (keeper of the minutes)

Kolman, Katja

Papasodaro, Laura

Wilcox, Vanessa

The meeting commenced at 10:30 CET.

I. Opening and Welcome

- (1) President Pichonnaz welcomed participants and thanked them for joining this first Council meeting in its new formation, apart from the one at which the Council elected the innominate members of the Executive Committee in September 2023. He then explained the electronic voting process.

II. Approval of the Agenda

- (2) **The agenda was approved.**

III. Report from the ELI President and other Members of the Executive

- (3) Pichonnaz presented the above report, emphasising that ELI was successful in applying for the EU Operating Grant for 2024 and received one of the highest amount, ie EUR 210,000. He thanked the Secretary General and the Secretariat for preparing the successful application, before reminding those present about the ELI Members' Day, which will take place on 3 June 2024. He invited Council members to submit ideas for topics.

IV. Algorithmic Contracts: Part 1

- (4) Co-Reporter Christian Twigg-Flesner presented the revised Draft ELI Report on EU Consumer Law and Automated Decision-Making, which provides eight general principles that should guide the adaptation of existing EU consumer law to ADM. It also reviews the ADM-readiness of key EU consumer law directives for the conclusion of contracts through the use of AI by consumers and/or traders, with recommendations for clarifications and additions to improve their ADM-readiness.
- (5) A discussion ensued, with the Project's Assessors, Marta Santos Silva, Başak Başoğlu and Pascal Pichonnaz congratulating the Reporters and providing additional suggestions. ELI's Scientific Director, Christiane Wendehorst, joined the others in congratulating Reporters for their timely report. Pichonnaz explained that the above output is interim in nature and is therefore subject to revision once the second part is completed. As such, only the second part will be approved by the Membership. Part I will be uploaded on the ELI website and disseminated in the meantime.
- (6) **The Council adopted the Interim Report (34 in favour, 2 abstentions).**

V. Fundamental Constitutional Principles

- (7) Pichonnaz informed those present that the draft is the outcome of several Project Team meetings and extensive internal and external consultations. The Reporters also sought to align the draft with the ELI-Mount Scopus report and made further changes to accommodate other comments.
- (8) Project Co-Reporter, Takis Tridimas explained the Team's aims and went on to present the structure of the draft and its content. Among others, he emphasised the added value of the document – the combination of principles and of fundamental rights. The draft encapsulates the post-WWII idea of constitutionalism, but also looks into the future, by dealing with issues such as misinformation and automated decision making.
- (9) A discussion ensued. Project's Assessor, Denis Philippe, praised the report and recommended its approval, while offering suggestions on improvement. Wendehorst opined that this is ELI's flagship project that deserves to be influential. She congratulated the Reporters and also recommended approval. Further comments were provided by Council members.
- (10) **The Council adopted the draft (41 in favour, 2 abstentions).** Prior to the publication, the draft will be put to the vote by the ELI Membership.

VI. ELI-Mount Scopus European Standards of Judicial Independence

- (11) Project Co-Reporters, Shimon Shetreet and Fryderyk Zoll, presented developments in the project, which should theoretically be put to a vote at the next Council meeting.
- (12) A discussion ensued with the Project's assessors, Teresa Bielska Sobkowicz and Paul Gilligan, providing input. While impressive, the general tenor was that more work needs to be done to finalise it and that it would be critical to disseminate the output broadly, once approved by ELI. Wendehorst underlined the need to ensure a high quality output and suggested that the team take time to complete it. It was agreed that the deadline might be extended, if need be.

VII. Innovation Paper Proposal: Guidelines for Good Green Nudging

- (13) Marta Santos Silva presented 'Nudges as Enablers of Sustainable Living', explaining that it developed from two High Level Expert Group meetings that took place on 7 December 2022 and 18 January 2023. A discussion ensued, following which feedback was given from the Scientific Director and Council members.

VIII. Any other Business

- (14) Pichonnaz reminded those present that the next Council meeting will take place in person, in Vienna, on 22–23 February 2024.

(15) He thanked Reporters, the Scientific Director Wendehorst, the Secretary General and the Secretariat as well as the members of the Executive Committee for their support.

The Council meeting ended at 13:30 CET.