

## Minutes of the ELI Council Meeting 6 September 2023

**Venue:** Main Building (Hauptgebäude), Senatsaal, University of Vienna, Universitätsring 1, 1010 Vienna, Austria

### **Present:**

**Chair:** Pichonnaz, Pascal (ELI President)

### **Council Members**

Anagnostopoulou, Despoina  
Anderson, Ross  
Augenhofer, Susanne  
Bachmaier Winter, Lorena  
Bagińska, Ewa  
Başoğlu, Başak  
Bielska-Sobkowicz, Teresa  
Busch, Christoph  
Calderai, Valentina  
Dollani, Nada  
Gilligan, Paul  
Gimeno-Ribes, Miguel  
Grasso, Gianluca  
Josipović, Tatjana  
Koch, Bernhard  
Kramer, Xandra  
Lehmann, Matthias  
Machnikowski, Piotr (proxy for Santos Silva, Marta (when absent, approx. 10:45 to 11:45))  
Malberti, Corrado  
Maugeri, Maria Rosaria  
McKechnie, William M  
Neumayr, Matthias

Patti, Francesco Paolo (proxy for Bechaalany, Sarah)  
Povlakic, Meliha  
Pozzo, Barbara  
Pretelli, Ilaria (proxy for Jiménez Muñoz, Francisco Javier)  
Rodríguez de las Heras Ballell, Teresa  
Santos Silva, Marta  
Scherpe, Jens  
Schroeter, Ulrich G  
Shirvindt, Andrey  
Szabados, Tamás (proxy for Pocar, Fausto)  
Tot, Ivan  
Tremosa, François  
Tuori, Kaius  
Twigg-Flesner, Christian (proxy for Howells, Geraint)  
Vos, Sir Geoffrey  
Wiewiorowska-Domagalska, Aneta (proxy for Zoll, Fryderyk when absent)  
Zalar, Aleš  
Zlatescu, Irina  
Zoll, Fryderyk

### **Ex-Officio Council Members**

Pichonnaz, Pascal  
Gammeljord, Anne Birgitte  
Sirena, Pietro  
Lord Thomas, John

International Union of Judicial Officers (UIHJ), Uitdehaag, Jos  
European Land Registry Association (ELRA), Manfred Buric

### **Senate**

Hartkamp, Arthur  
Lasserre, Bruno

Lord Mance, Jonathan  
Zimmermann, Reinhard

### **Other Attendees**

Andersen, Henrik (remote, for the part on  
Climate Justice)  
Eigenmann, Antoine (remote, for the part on  
Digital Inheritance)  
Harbinja, Edina (remote, for the part on Digital  
Inheritance)

Lempen, Karine (remote, for the part on Right  
to Disconnect)  
Muir, Elise (for the part on Fundamental  
Constitutional Principles)  
Ratti, Luca (remote, for the part on Right to  
Disconnect)  
Wendehorst, Christiane (ELI Scientific Director)

### **Members of the ELI Secretariat**

Wilcox, Vanessa  
Kolman, Katja (keeper of the minutes)

Papasodaro, Laura

The meeting commenced at 09:30 CEST.

#### **I. Opening and Welcome**

- (1) President Pichonnaz welcomed the participants and thanked Council members that will not continue on the Council for another mandate, adding that they should have received a certificate in recognition of their contributions to the work of ELI.

#### **II. Approval of the Agenda**

- (2) Pichonnaz informed those present that the agenda item on a possible ELI intervention before the European Court of Human Rights was removed from the agenda. He went on to explain why and outlined how ELI could nonetheless offer support to the Court.
- (3) **The agenda was approved.**

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

- (4) Pichonnaz presented the above report, pointing out ELI's fruitful cooperation with ALI and the University of Vienna as well as ELI's first ELI Members Day, which took place on 1 June 2023, and was a success. He was also pleased to report that ELI received the full amount of the 2022 EU operating grant and thanked the Secretariat for its work in this regard.

#### **IV. Algorithmic Contracts: Part 1**

- (5) Pichonnaz explained that the above output, which aims at feeding into the Commission's work, will not be put for a vote at the present meeting, as the Reporters wish to work on it further. The Commission has already confirmed that a postponed adoption (in October or early November 2023 at the latest) would still be helpful.
- (6) Co-Reporters Christoph Busch and Teresa Rodriguez de las Heras Ballell presented the revised Draft ELI Report on EU Consumer Law and Automated Decision-Making, focusing on the structure, goals and examples of how the draft Principles translate into concrete proposals for updating EU Consumer Law directives.
- (7) A discussion ensued, with several participants congratulating the Reporters on the work done. Questions on substance were raised. Co-Reporters Rodriguez de las Heras Ballell and Christian Twigg-Flesner thanked participants for the comments, which will be considered. Twigg-Flesner invited participants to submit any further comments by 15 September.

- (8) Pichonnaz clarified that there will be an online vote on the final document, accompanied by the Assessors' position on it. He added that this first interim Report might be revised in light of subsequent developments in the second phase of the project.

#### **V. Guiding Principles on Implementing Workers' Right to Disconnect**

- (9) Project Co-Reporters Karine Lempen and Luca Ratti thanked all the stakeholders that were involved in the project for their helpful comments. They added that the ELI Principles will be all the more important as the European social partners are currently negotiating on this issue. They went on to give a brief presentation of their output.
- (10) Discussions ensued, during which participants congratulated the team on the work achieved. Attention turned to Guiding Principle 6 and structure of the introduction among other things. This was followed by an internal discussion.
- (11) **The Council unanimously adopted the project (48 in favour) on the condition that the report would be revised in light of discussions. In particular, it would be ideal to add a step in the introduction of the report between the identification of the problem that the project sought to tackle and the proposed solution, by spelling out whether and the extent to which existing labour laws at domestic level addressed the issue. This would help to position the Principles vis-à-vis existing labour laws. The Reporters should also reflect on the advantages of explicitly clarifying how the Principles go beyond the European Parliaments resolution mentioned therein so it is clear what is new and original about them. Nothing should touch the substance of the Principles as such, however. The Executive Committee and Scientific Director will approve the proposed changes.**

#### **VI. Fundamental Constitutional Principles**

- (12) Project Co-Reporter Elise Muir presented the draft of the above project, focusing on the Principles on automated decision making (ADM) and on the obligations for private parties.
- (13) This was followed by a discussion, during which participants congratulated on the team multiple occasions for what has been achieved so far and provided suggestions to improve the draft further. Muir thanked everyone for their comments, adding that they would be carefully considered.

#### **VII. Climate Justice – New Challenges for Law and Judges**

- (14) Project Co-Reporter Henrik Andersen presented the progress made on the above and the developments that have taken place as far as its scope is concerned.

- (15) This was followed by a discussion, during which, among other things, Andersen was advised to get in touch with experts within the European Centre of Tort and Insurance Law/Institute for European Tort Law/World Tort Law Society, several of whom were present at the Council meeting.
- (16) **The Council agreed to extend the deadline of the project to June 2024 (43 in favour, 2 against, 3 abstentions).**

#### **VIII. Digital Inheritance Proposal**

- (17) Antoine Eigenmann and Edina Harbinja presented the proposal.
- (18) A discussion ensued. Eigenmann and Harbinja thanked those present for their comments and provided clarifications, adding that they would reflect on the discussions further. This was followed by an internal discussion.
- (19) **The project was adopted (47 votes in favour, 0 against, 1 abstention).**

#### **IX. Appointment of Assessors and MCC Chair**

- (20) **The Council unanimously approved Xandra Kramer (MCC Chair), Teresa Rodríguez de las Heras Ballell and François Tremosa as Assessors (44 in favour).**

#### **X. Report from the Treasurer, including approval of the 2024 budget forecast and amendments to the Reimbursement Guidelines**

- (21) ELI Treasurer Pietro Sirena presented his report.
- (22) **The budget forecast was approved (50 votes in favour).**
- (23) Sirena went on to briefly present the revisions to the ELI Reimbursement Guidelines, which were aligned with the new travel policy of the European Commission and to make the process of claiming reimbursements easier. Apart from a suggestion to change the requirement on the need for validated train tickets, no objections were levelled at the proposed changes.

#### **XI. Report from the Membership Committee Chair**

- (24) Rodríguez de las Heras Ballell presented the above, focusing on the quantitative and qualitative aspects ELI's Membership development. She focused on the work done to enhance ELI Membership benefits, such as the launch of the ELI Members Day and project kick-off webinars.

## **XII. Report on the Evaluation of ELI Hubs and SIGs**

- (25) Wiewiorowska-Domagalska presented the above report, pointing out that ELI presently has 15 Hubs, including three new ones covering the Nordic region, Ukraine and Turkey, as well as 11 SIGs. She encouraged those present to engage in the groups' activities.

## **XIII. Any other Business**

- (26) Pichonnaz expressed his gratitude to the Council for the collaborative work achieved over the past two years. He invited continuing Council Members to join the meeting of the newly composed Council on 7 September, at which the three innominate members of the Executive will be elected.
- (27) He invited those present to look out for a green dot on badges, which signifies new ELI Members, and to welcome and integrate them in ELI's activities.
- (28) He thanked the ELI Secretariat, Secretary General and Scientific Director once again for their work.

The Council meeting ended at 13:15 CEST.