

Minutes of the General Assembly 2016

7 September 2016

University of Ferrara, Faculty of Law, Ferrara

Chair: Diana Wallis, ELI President

Keepers of the minutes: Tomasz Dudek, Anna Scheithauer (ELI Secretariat)

Meeting commenced at 11:05

1. Welcome and Opening

- (1) Diana Wallis welcomed the attendees and presented the Agenda of the 2016 General Assembly. **The Agenda was approved.**
- (2) The President thanked the University of Ferrara for hosting this year's Conference. She also thanked all ELI members and especially members of the Executive Committee for their work and contribution to the growth of the European Law Institute (the 'ELI' or 'Institute'). Diana Wallis emphasised that the ELI has grown significantly during the past year in membership (ie Fellows and Institutional Observers) as well as in its projects and visibility.
- (3) Diana Wallis emphasised that while for the ELI the year was full of positive developments, serious challenges face the continent, especially with regard to migration, finances and, more recently, Brexit. European Law might lose the influence of Common Law and Common Law could lose the influence of European civil tradition, an interconnection that is mutually beneficial. In this context, President Wallis encouraged members of the ELI present at the meeting to use the Conference to discuss those challenges.

2. Approval of the 2015 General Assembly minutes

- (4) The 2015 General Assembly minutes were unanimously approved.

3. Reports

a) Report from the President and Executive Committee

- (5) Diana Wallis presented the report from the President and the Executive Committee. She emphasised the Executive Committee's role in representative matters, to advance the ELI's influence and recognition in order to be able to work with like-minded institutions across Europe. President Wallis stressed the valuable ongoing cooperation with the Academy of European Law (ERA), the European Networks of Councils for the Judiciary (ENCJ) and the International Institute for the Unification of Private Law (UNIDROIT), among many others. According to her, 'it is by working together that we can achieve success.' The General Assembly unanimously approved the report.

b) Report from the Treasurer

- (4) Johan Gernandt presented the Treasurer's report and emphasised the improving financial situation of the ELI. He announced that from mid-September the ELI Secretariat will have an Accounting Officer for 10 hours a week, which is an important development. He also explained that the auditor, Dr Bekovec, who accepted the financial report for 2015, has audited the ELI accounts from January to June 2016. He reminded the membership that the auditor should be retroactively appointed by the General Assembly for 2015, and that an appointment for 2016 and 2017 would be needed. Johan Gernandt expressed his confidence in the good financial situation of the ELI and declared that the Institute has possibilities for new projects.
 - (5) Reiner Schulze mentioned the financial support received by the University of Vienna, for which the ELI is extremely grateful and on which the ELI depends. He stressed the relevance of looking for additional funds, which would be one of the great challenges in the near future.
 - (6) Johan Gernandt explained that indeed the organisation is safe for another 2–3 years, but a long term solution is needed. This issue had been discussed between the Executive Committee and the Senate. The ELI will continue trying to attract private sponsors and will also look at any further possible funding sources, such as the European Commission.
- (7) The General Assembly unanimously approved the 2015 accounts, the 2016 accounts as of 30 June, and the forecast for 2017.**
- (8) The General Assembly appointed Dr Berkovec as an auditor for 2015 (retroactively), 2016 and 2017.**

c) Overview on projects

- (9) The Vice-President, Christiane Wendehorst, provided an overview of the current and upcoming ELI projects. She summarised the ongoing Instruments and Statements, and invited the audience to look into the Conference materials, where some of the drafts are the close-to-final outcome of ELI projects that will soon be voted on by the General Assembly.
- (10) As Christiane Wendehorst explained, currently there are three Statements being prepared. The Statement on 'Detention of Asylum Seekers and Irregular Migrants and the Rule of Law' is at an advanced stage. The Working Group, under the leadership of Boštjan Zalar, is finalising the checklists and explanatory notes that will help judges decide cases about the detention of asylum seekers to ensure that the rule of law is observed. The 'Statement on the European Commission's Proposed Directive on the Supply of Digital Content to Consumers' has already been finalised and the complete draft will be presented at the Conference. The Project on 'The Principled Relationship of Formal and Informal Justice through the Courts and Alternative Dispute Resolution' is being conducted as a joint project of the ELI and the ENCJ. The project team is making good progress and already attracted the interest of institutions such as the European Commission.
- (11) Christiane Wendehorst also presented the four Instruments that the ELI is working on at the moment. The Instrument on 'Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law' is one of the ELI projects that will soon be finalised. The draft Instrument will be presented during the Conference and will be finalised after Ferrara. The ELI Instrument on

'Rescue of Business in Insolvency Law' is also in its final phase. The Working Group expects to provide a final draft in spring 2017, so it will hopefully be put to a vote during the next General Assembly in Vienna. The joint ELI-UNIDROIT Instrument 'From Transnational Principles to European Rules of Civil Procedure' is also close to its final phase. As President Diana Wallis clarified in response to the question of a member, the first Working Groups will finalise their work at the beginning of 2017, and a Working Group on structure will then finalise the whole Instrument. The Project on 'Empowering European Families - Towards More Party Autonomy in European Family and Succession Law' is designing templates and model clauses that might facilitate the life of international couples in the EU.

- (12) During the General Assembly, it was also mentioned that four new project proposals would be discussed that afternoon at the meeting of the ELI Council: a project on online intermediary platforms, a project on tax incentives in the field of research and development, a project on vulnerable adults and a project on data as assets and tradable items.

d) Report on Special Interest Groups (SIGs)

- (13) John Sorabji presented the situation concerning the ELI SIGs. He highlighted their growth both in the number of members and scope of work. SIGs are intended to be grassroots bodies, laboratories of ideas, to bring the experts together and build on their knowledge. The aim of SIGs is also to keep their respective fields under constant review.

- (14) In terms of SIG activities, John Sorabji specified that some are very active (eg the Intellectual Property law, Digital law, Dispute Resolution, Business and Financial Law SIGs), whereas some are not (eg EU law, Fundamental Rights law). He encouraged members to participate in the SIG meetings on 8 September.

e) Report on Membership

- (15) Walter Doralt presented the current state and trends with regard to the ELI membership. He thanked members of the Membership Committee and members of the Executive Committee for their work in promoting the ELI. Currently, the ELI consists of 1,135 fellows (1,038 in 2015) and 69 individual observers – in total 1,204 members, with over 100 institutional observers.

- (16) He emphasised the ELI's need to focus on attracting more judges and notaries as well as experts in the fields of constitutional and administrative law.

f) European Young Lawyers Award

- (17) Diana Wallis launched the European Young Lawyers Award. The Award is unique to the ELI and is linked to the ELI's goal on the improvement of European law. The purpose of the Award is to give a voice to the future European legal experts. Eligible applicants will be students and young practicing lawyers (18–30 years old), knowledgeable in English. They will have to prepare a unique and original paper (up to 2,500 words) dealing with a European legal issue that could be improved. The winner will have a chance to present her/his paper at the next General Assembly, her/his travel and accommodation costs will be covered up to €1000, s/he will have an opportunity to meet top European legal experts and have her/his paper published on the ELI website. Richard Frimston suggested that the age limit be higher (35 years). Josef Azizi shared his view that this initiative will strengthen and fortify the ELI and asked for further clarification

about the requirement relating to 'European universities'. Diana Wallis clarified that a broad definition of Europe would apply.

Meeting concluded at 12:15