



# ELI

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# ELI Updates

## March - April 2017



### **MESSAGE FROM CHRISTIAN TWIGG-FLESNER, PROFESSOR OF COMMERCIAL LAW, UNIVERSITY OF HULL CO-ORGANISER OF THE CONFERENCE ON DIGITALISATION**

Dear Members and Friends of the ELI,

One of the most fascinating and challenging debates in Europe (and beyond) concerns the various legal issues which emerge from the rapid progress of the digital revolution. The platform economy challenges established paradigms for contract and consumer law. Data has become both a currency and a commodity, which raises difficult questions about rights over one's data. Autonomous devices and highly-sophisticated robotics are becoming part of our every-day lives. The possibilities of additive layer manufacturing (3D printing) are ever-increasing and at the same time within touching distance of consumers. Blockchain technology might create new business models and pose fresh regulatory challenges. There can be little doubt that disruptive technology has disrupted the law, and developing a legal response is top of the list of priorities for both lawyers and policy-makers alike.

The European Commission is conducting a broad discussion on a wide variety of issues, aware of the urgency which the rapid advance of digitalisation entails, but at the same time avoiding a rush to legislate. This approach is appropriate as the legal issues are still being identified and debated, even if some national governments are eager to go further.

The ELI is a leading participant in this debate: its Special Interest Group on Digital Law is very active, and one of the ELI's current adopted projects focuses on Draft Model Rules for Online Intermediary Platforms. Another is a feasibility study with the American Law Institute on data as an asset and tradeable item. Most recently, the ELI hosted a Conference at my home institution (and indeed that of ELI President Diana Wallis), the University of Hull (UK), on 'Emerging Legal Issues in an Increasingly Digital Society'. The Conference was attended by more than 60 delegates and there was lively discussion on many aspects of the digital revolution. The University of Hull has a long tradition of legal scholarship on aspects of EU law, including through its Institute of European Public Law (home of the European Public Law Journal) and as a host (twice) for the Acquis Group during the preparation of the Draft Common Frame of Reference (DCFR). Welcoming so many ELI Members to Hull was therefore particularly pleasing.

The Conference took place the day after the United Kingdom formally invoked art 50 TEU to begin the process of leaving the EU. There is a fear among legal scholars that their future participation in collaborative research in the EU is at risk. By contrast, the timing of the Conference underlined that the ELI is an institute for the whole of Europe. It is reassuring that the ELI's European Legal Community is not limited to the EU, and UK scholars will be able to contribute actively to the ELI in the future.

Professor Christian Twigg-Flesner

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## 6-8 September 2017: Annual Conference and General Assembly



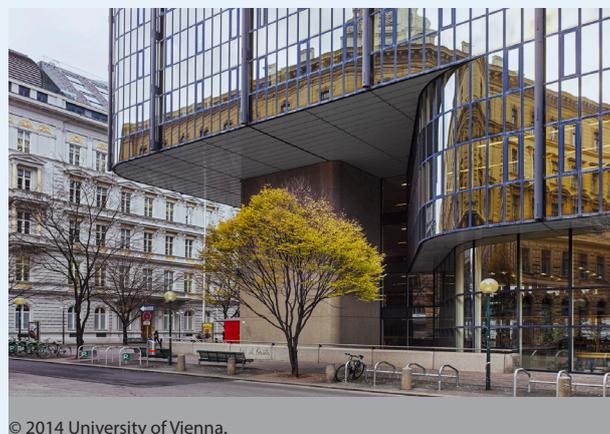
Members and friends of the European Law Institute will meet this year in Vienna from 6–8 September for the ELI Annual Conference, which will focus its attention on some of the most topical legal issues in Europe and beyond. The event is co-organised with the City of Vienna, and will gather key experts from their respective fields, representing a broad spectrum of legal professions and jurisdictions. Do not miss the opportunity to be involved in the discussions. Register today!



We are honoured to announce that **Michael O’Flaherty**, Director of the European Union Agency for Fundamental Rights (FRA), will give a keynote speech on 7 September. In addition to the outgoing ELI President, **Diana Wallis**, and Vice-President, **Christiane Wendehorst**, other esteemed guests, such as the Austrian Minister of Justice, **Wolfgang Brandstetter**, will address participants.



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## The Conference at a Glance

The panels during the Conference will present and discuss current and potential ELI Projects.

### Presentation and Vote on ELI Instrument:

- *Rescue of Business in Insolvency Law*

### On Digitalisation:

- *Building a Data Economy*
- *Sharing Economy (Online Intermediary Platforms)*
- *Internet of Things*
- *Conflict of Laws and Digitalisation*

### On Human Rights:

- *Detention of Asylum Seekers and Irregular Migrants and the Rule of Law*
- *Business and Human Rights*
- *Common Constitutional Principles in Europe*

### On Procedure:

- *From Transnational Principles to European Rules of Civil Procedure*
- *The Courts and ADR*
- *Third Party Litigation*

### Other Panel Sessions on:

- *Vulnerable Adults*
- *Empowering European Families*

## Meetings of ELI Bodies and Elections

In the morning of 6 September, members of the ELI are invited to participate in the **General Assembly**, where the achievements of the Organisation will be discussed and ELI Bodies will present their reports. Further, ELI Fellows will elect 30 new Council Members. The newly elected ELI Council will then meet in the afternoon of 7 September to elect the new Executive Committee, including the new ELI President.

## SIG Conference

The Annual Conference will also host panel sessions for some of the ELI Special Interest Groups (SIGs) on 8 September, such as the Digital or the Administrative Law SIG.

## Accommodation

The ELI Secretariat arranged exclusive deals with hotels in Vienna very close to the venues. In order to ensure a place to stay during the Conference, you are advised to book your room as soon as possible. Kindly follow the button below to get more information.

The ELI Secretariat Team looks forward to welcoming you in Vienna!

[Accommodation](#)

[Registration](#)

[Tentative Agenda](#)



## ELI Elections

The ELI's third Council elections, electing half of the Council seats, will take place at the General Assembly in Vienna on 6 **and** 7 September 2017, giving Fellows enough time to cast their votes for their preferred candidates. The election procedure is governed by the ELI Election Byelaw adopted in Council Decision 2013/5 of 2 April 2013, which can be consulted [here](#). The list of remaining Council members, whose mandate lasts until 2019, can be consulted [here](#).

The elections are prepared and administrated by the ELI Secretariat and overseen by the Returning Officer, Irmgard Griss (Speaker of the Senate). The election procedure is divided into two phases:

- **Nomination and endorsement period (28 April - 16 June)**

- **Elections at the General Assembly in Vienna (6-7 September)**

### Nomination and Endorsement Phase

The nomination and endorsement phase lasts from **28 April to 16 June**. In order to stand for election, each candidate must submit a completed nomination form together with a portrait photo. The form can be downloaded [here](#). You can submit the nomination form by sending it together with a portrait photograph to the ELI Secretariat at: [elections@europeanlawinstitute.eu](mailto:elections@europeanlawinstitute.eu), where staff will upload the information onto the MyELI platform for other Members to see.

All nominations must be endorsed by **five Fellows**. Candidates cannot endorse their own nominations. Endorsements can be given electronically via email to [elections@europeanlawinstitute.eu](mailto:elections@europeanlawinstitute.eu) during the same period (28 April to 16 June). **Fellows who would like to stand for elections are encouraged to send or upload their nomination forms as soon as possible in order to provide other Fellows**

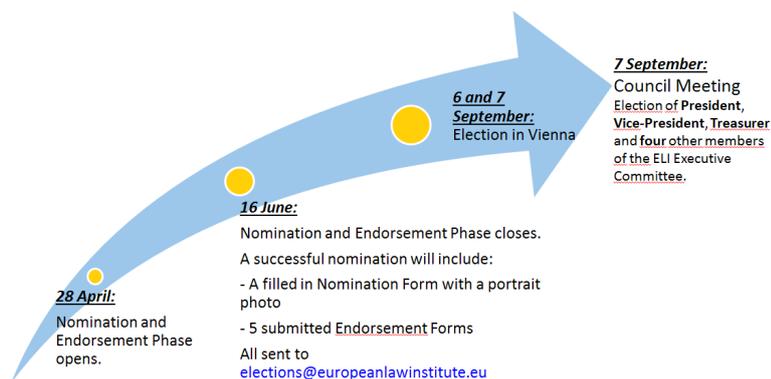
**with adequate time to endorse them before the deadline passes on 16 June.**

Alternatively, nominations will be considered complete and endorsed if nomination forms are submitted to the ELI Secretariat no later than 16 June **together with** completed endorsement forms from five ELI Fellows. The endorsement form can be downloaded [here](#). All forms must be sent to [elections@europeanlawinstitute.eu](mailto:elections@europeanlawinstitute.eu). These candidates' profiles will be uploaded onto the MyELI platform and labelled as 'endorsed'.

Each ELI Fellow may endorse an **unlimited number of candidates**. The names of endorsers will be visible only to the Returning Officer and support staff in the Secretariat.

The full list of endorsed candidates will be published no later than two months before the elections. Every ELI Fellow, present at the meeting of the General Assembly, is entitled to vote. Proxy voting is possible, with the number of proxies limited to one proxy per Fellow in attendance. The elected candidates become members of the Council on the condition that they accept their election.

The first meeting of the newly elected Council will follow after the announcement of the election results on 7 September. This meeting will be the venue of the election of the *President, Vice-President, Treasurer and the four other members of the Executive Committee*. It is therefore important that candidates who stand for election as a new Council member arrange their schedule so as to enable them to take part in the meeting.



## Updates on Projects

### Criminal Law Instrument

The ELI is proud to announce that the results of the 'Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law' Project have been approved as an Instrument of the European Law Institute.

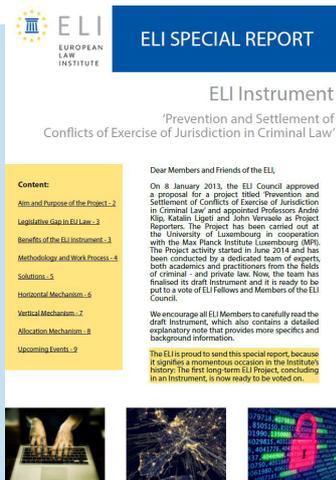
This represents a milestone for the Institute, as this is the first long-term Project that produced results in the form of an Instrument. The Project was put to a vote of both the ELI Council and all ELI Fellows.

The ELI thanks the Project Reporters, Professors Katalin Ligeti, André Klip and John Vervaele for their excellent work and congratulates them on the impressive results.

Initially, the Project aimed at elaborating a new legal framework for the prevention and resolution of conflicts of jurisdiction in criminal matters in the Area of Freedom, Security and Justice within Europe. That is a truly important goal and an undertaking that is long overdue. The Project Team went above

and beyond their initial aims and produced not one, but three complete legal frameworks. **In the words of Professor John Vervaele: 'We came up with three different policy options and related legal frameworks, each with many different implementation options. By doing this we have ensured that whatever policy option is chosen by the legislator our project provides sound legal advice. In the end, each of our proposals will substantially improve European justice.'**

The approved Instrument can be found [here](#). A short report and explanation on the project's background and aims, as well as a description of the results can be found [here](#).



### Workshop on 'Building a Data Economy'

On 20 March 2017, the Workshop on 'Building a Data Economy' was held in Vienna at the *Haus der Europäischen Union*.

The Workshop was organised by ELI Vice-President Christiane Wendehorst. The main aim of the Workshop was to get an overview of the most relevant fields of law affected by the rise of the data economy. A broad and open approach is necessary to identify what further efforts will be needed



The participants met at the Haus der Europäischen Union.

to distinguish overarching themes and common approaches to data in different areas of law.

Twenty participants from Europe and the United States of America attended the Workshop, among others, representatives of the European Commission. They discussed whether our law is fit for data as a key economic asset and tradeable item. The discussion was vibrant and greatly benefitted from the presence of experts from many different fields of law.

The outcomes will provide the ELI and American Law Institute (ALI) teams working on a feasibility study on 'Data as an Asset and Tradeable Item in the 21st Century' a lot of food for thought.



## Conference on Digitalisation in Hull, UK

The European Law Institute organised a Conference on Digitalisation in Hull, United Kingdom, on 30–31 March 2017. The title of the Conference was 'Emerging Legal Issues in an Increasingly Digital Society'. The Conference was held at The Lawns Centre, where more than 60 participants came together to exchange ideas and discuss recent trends such as smart contracts and block-chain technology, the use of personal data as payment, 3D printing, liability issues, and online access to justice.

The Conference was opened by ELI President, Diana Wallis, and Gonzalo Villalta Puig, Head of the School of Law and Politics at the University of Hull. Both were delighted to welcome the ELI to Hull and the UK. Villalta Puig said that he was honoured to have the ELI organise the Conference at the University, as the study of European Law and International Law are very much at the core of the identity of the law school. President Wallis, Senior Fellow of the University's School of Law and Politics, expressed her great pleasure to be able to invite the ELI to the UK and emphasised that 'the Conference shows that even on the day after the UK invoked Article 50 TEU, the ELI is still a European legal community'.

Lord John Thomas, Lord Chief Justice of England and Wales, gave a keynote speech on the challenges and opportunities presented by online delivery of justice. He described the continuing work on the online courts and what risks need to be avoided and what hurdles overcome in order to implement an online procedure that can deliver better and more expedient results.



Lord John Thomas, Sjeff van Erp, Dirk Staudenmayer and Wojciech Wiewiórowski.



ELI President Diana Wallis welcoming participants of the Conference in Hull.

The first day of the ELI Conference on Digitalisation commenced with a session on 'e-CODEX and Access to Justice'. For this session, Peggy Struck, Head of Operations and Growth with Crowdfjustice, elaborated on how crowdfunding can be used to bring forward more cases of public interest, with low economic value. Crowdfjustice has already funded more than 180 cases and one of the examples where Crowdfjustice has had an impact recently was by funding the 'People's Challenge', a court case that was successfully brought all the way to the Supreme Court of the UK. It is just one example of a legal case that might not have been able to make much headway without crowdfunding. Pablo Cortés, Professor at the University of Leicester discussed many of the legal issues connected to 'online-justice' at a European level and the different national trends. Finally, Ernst Steigenga, gave a presentation on the status of the e-CODEX project which allows for e-Justice Communication via online data exchange. He also described the legal basis for the different ways through which e-CODEX will facilitate access to cross border justice in civil law. The session was chaired by ELI President Diana Wallis, who led discussions and took questions after the panellists had concluded their presentations.

The second session of the day focused on 'The Digital Environment and Liability Issues'. Before the session started, Dirk Staudenmayer, Head of Unit at the EU Commission's DG Justice, introduced the Commission's recent Communication on 'Building a European Data Economy'. He thanked President Diana Wallis and the ELI for hosting the Conference and the active role the ELI had played in the ongoing dialogue between institutions and stakeholders. He was particularly pleased that the Conference touched upon so many issues that the Commission is considering in connection with the emerging EU Data Economy. He presented the Commission's goals on the key topics of the discussion, for example, how to ensure the free flow of data while providing sufficient protection of personal data, how to facilitate access to different types of data for a well-functioning EU market and, the main focus of the session, liability issues in the data economy. ELI Vice-President, Christiane Wendehorst, picked up on Staudenmayer's points and provided a detailed analysis of the many liability issues that can arise in the Internet of Things (IoT). Many of the conventional civil law approaches to liability may lead to uncertainties when it comes to liability for damages caused by a connected device. She stressed that the IoT might require the walls between conventional liability regimes to be broken down for a more holistic approach. Lee Odiam, University of Hull, provided insights from the tech-community and described ways in which 3D-printing can have practical applications that raise various questions of liability and morality. An interesting aspect of his presentation was that while he discussed the actual potential liability of 3D-printing, a 3D printer ran in the background and provided an actual, concrete example of what this technology can achieve.

Finally, Kjell Sévon from the European Parliament's Committee on Legal Affairs discussed the recent report of the Parliament on European Civil Law Rules in Robotics and the liability issues that the increased use of robots and artificial intelligence may create. The panel was chaired by Christian Twigg-Flesner, Professor at the University of Hull.

Day 2 of the ELI Conference started with a session dedicated to 'Building a Data Economy', chaired by Lord John Thomas. Dirk Staudenmayer described

the focus of the EU Commission in the field and the main emphasis of the recent EU Commission's Communication. Among the topics that he specifically discussed were the issues of data access, data portability and interoperability all of which need to be ensured for a well functioning Data Economy. Wojciech Wiewiórowski, the Assistant European Data Protection Supervisor (EDPS), informed the participants on Data Subjects next (individual about whom information is stored in IT-based system). He explained the ways, in which the European Data Protection Supervisor anticipates that the data economy will have an impact on data protection. He described how data protection and a vibrant data economy can co-exist and where the biggest risk of conflicts lie. ELI Vice-President, Christiane Wendehorst, focused on personal data and how the General Data Protection Regulation (GDPR) will have an impact on the Data Economy. One of the issues that all the panellists noted was that Data Subjects do not seem to be overly concerned with the privacy of their personal data and are unaware of risks. Christiane Wendehorst introduced a particularly novel idea (in this field) that might be a solution that could enhance the protection of Data Subjects but at the same time ensure the flow of data through the economy. The solution would be a form of data trusteeship, whereby a Data Trustee manages the personal data of the Data Subject and follows his directions to exercise the data rights of the Subject. The Data Trustee would act as a single point of contact between the Data Subject and the Data Businesses that want to utilise the data.



ELI Vice-President Christiane Wendehorst.

The presentations sparked a lively debate. The final session of the Conference was devoted to 'Smart Contracts and Block-Chain Technology'. Sjef van Erp, Professor of the University of Maastricht, chaired a panel on these extremely topical issues.

Adam Ryan and Tom Hingly, both from Freshfields Bruckhaus Deringer LLP, gave a detailed account of what Block-Chain Technology is and the distributed-ledger technology behind it. They used the most known example of the commercial application Block-Chain technology, the digital currency Bit-coin as an example. They also explained the logic behind smart contracts, its potential application and limitations. Among the many benefits of smart contracts would be increased security and substantial reduction of back-office costs. They also explained the legal issues that these new technologies face, mainly uncertainty of which governing law should apply, the jurisdiction for resolution of disputes, data protection and security concerns.

Michel Cannarsa, Dean of the Faculty of Law at the Catholic University of Lyon, took the floor and focused on more specific legal issues connected to smart contracts. He explained the key differences between conventional contracts and smart contracts. The benefits of smart contracts, among others, include no need to rely on a presumption of good faith and that their non-performance is virtually impossible. Therefore, they would reduce the need of enforcement and the need of intermediaries. He

also provided insights on the many legal challenges ahead, before the use of smart contracts can become widespread. These novel technologies and their potential in contract law created a lot of debate and interest from the attendees of the Conference.

Diana Wallis concluded the two-day Conference and expressed her fascination with the presentations and stated that the future of private law was already here and it was up to the legal community to make sure it served consumers and the community well.



Hull united experts to discuss 'Emerging Legal Issues in an Increasingly Digital Society'.

## First ELI European Young Lawyers Award

The ELI has had a great response to its first European Young Lawyers Award, which was officially launched at the Annual Conference 2016.

The goal of this award is to provide the young European legal community with a mechanism to propose practical suggestions for the improvement of European law, as a way of giving voice to the future European legal experts and to help the ELI in fulfilling its core mission of improving the quality of European law.

In order to participate, candidates had to submit a unique and original paper which had not previously been published and which dealt with a European legal issue that could be improved.

The successful candidate will be invited to present their paper at the ELI Annual Conference on 6-8 September 2017.

The University of Kent's Brussels School of International Studies will kindly sponsor this year's award and cover the winner's accommodation and travel expenses up to EUR 1,000. This will provide the winner with an opportunity to meet and greet some of the world's leading law experts and exchange ideas with them.

In addition, the winning contribution will be published on the ELI website and its author will be awarded two years of free ELI Fellowship, which will allow the winner to be involved in Special Interest Groups, present project proposals and participate in the Members Consultative Committees of the different ELI Projects.

The deadline for submission was 30 April 2017 and the submissions received will be reviewed within the next few weeks. The announcement of the winner will follow at the end of July.

Further details can be found [here](#).

## ELI-UNIDROIT Joint Project 'From Transnational Principles to European Rules of Civil Procedure'

### Joint Steering Committee Meeting in Rome



From 5–7 April 2017, the International Institute for the Unification of Private Law (UNIDROIT) hosted the ELI-

UNIDROIT Joint Meeting in Rome, in which the Steering Committee, the Co-reporters and Members of the Working Groups (WGs) discussed the progress of the Project 'From Transnational Principles to European Rules of Civil Procedure'.

On 5 April, a meeting was held to provide an opportunity to review and discuss a consolidated version of the three final drafts on access to information and evidence, provisional and protective measures, and service and due notice of proceedings. The Co-reporters of the respective WGs, and some of the Steering Committee Members, as well as the Co-reporters of the 'Structure' WG, focused on identifying common structure and style of the rules. The consolidation of the first three outputs of the Project revealed that although three different working methods were used, the WGs developed principles of civil procedure, which are not only compatible with each other, but most importantly, interact with each other within a functional whole. Some further adjustments might be necessary, especially with regard to the terminology used and working on overlaps or gap-filling. An issue of the second-language version of the three draft rules was also raised, and it was agreed that the rules would be translated into French, with a possibility to consider further language versions after the publication of the draft.

The meeting on 5 April continued with a discussion on the 'second-' and 'third-cycle' WGs. The Co-reporters of the '*Res judicata* and *lis pendens*', 'Obligations of Parties, Lawyers and Judges', 'Judgments', 'Parties' and 'Costs' WGs were updated on the Project and its milestones in the upcoming months. The Co-reporters, the 'Structure' Group and the Steering Committee also considered questions concerning the exact procedure of consolidation, and clarified aspects of the drafting process. The Co-reporters of the 'Structure' WG shared templates with all the

WGs, who are currently developing or finalising their drafts. The uniform templates were designed to provide a single format, which would allow the draft rules and comments to be shaped and presented in a more consistent manner.

The official part of the Joint Steering Committee Meeting with Members of the Project started on the next day. The Secretary General of UNIDROIT, José Angelo Estrella Faria, and ELI President, Diana Wallis, chaired the meeting from 6–7 April. All the Members of the Steering Committee were present during the two-day event, as well as the Co-reporters and Members of all the WGs ('Access to Information and Evidence'; 'Provisional and Protective Measures'; 'Service and Due Notice of Proceedings'; 'Obligations of Parties, Lawyers and Judges'; '*Res judicata* and *lis pendens*'; 'Judgments'; 'Parties'; 'Costs'; and 'Structure').

The purpose of the morning session on 6 April was the presentation of the consolidated draft of the first three sets of rules on civil procedure. The Co-reporter of the WG 'Structure', Xandra Kramer, explained what the intermediate results of consolidation revealed, informing participants that the ultimate goal of the WG was to achieve coherence in terms of scope, format, content, language, and the degree of the elaboration of the formulated rules. To ensure coherence of all the current and future final drafts, the 'Structure' WG introduced a template for harmonisation of the structure of the rules to all of the WGs. The template divides the draft into three parts: a general part, special part and the cross-border issues. Following such a structure, the teams will be able to submit a version of the rules for further harmonisation by the overarching 'Structure' WG.

The afternoon session on 6 April was devoted to a progress report by one of the Co-reporters of the 'Parties' WG, Emmanuel Jeuland, who outlined the timescale within which the Group would produce a first draft set of rules by November 2017, and a final draft in 2018. He also reported on the topics discussed by the Group at their second meeting, which took place on 3–4 March in Paris. The discussion was focused on structure, and how detailed the rules

should be. The Members considered the following issues: joinder, intervention and third-party notice; the role of public prosecutors in civil proceedings



UNIDROIT Meeting in Rome.

across Europe; rules on the stay of proceeding due to death; rules on mandatory representation by a lawyer; IT-related rules; and robots as parties.

Next, Alan Uzelac, Co-reporter of the 'Obligations of Parties, Lawyers and Judges' WG, took the floor in order to present the final draft of the Group. He explained the working method used by the Group in developing its principles, and said that its Members had been working in subgroups dealing with: the general part, case management, determination of facts, determination of law, and consensual dispute resolution. In each section of the draft, the rules are divided into four parts: parties, lawyers, judges and sanctions. Following that, the Co-reporter presented the most important parts of the draft, thus, for instance, in the general part of the rules, the crucial place is taken by provisions on the common and shared obligation of all participants to work towards the common goal. Case management is one of the most important special parts of the draft. The WG received a lot of positive remarks and contributions from the audience and will consider the comments together with the 'Structure' Group in the coming months.

The first day was concluded with a presentation on the advanced rule on '*Res judicata*' by the Co-reporter, Frédérique Ferrand. She informed participants that the Group has worked in five different languages from the very beginning, which was very helpful. She explained that at the last working meeting in October 2016, its Members discussed preliminary measure motions to set aside a judgment and the necessity to include provisions on infringements of EU law. The discussion moved on with a presentation

on '*Lis pendens*', which was made by the second Co-reporter of the Group, Burkhard Hess. He explained the sources which the Group took into account in developing the draft on this topic, for instance, the ALI-UNIDROIT Transnational Rules of Civil Procedure, European Regulations, the Lugano Convention, and the case-law of the CJEU. An issue that the Group is aiming to solve while working on developing the rules on *lis pendens* is how to adapt European rules to domestic situations.

During the second day of the Joint Meeting, the Members continued their discussion in view of the consolidation of drafts and examined how the work of the Project's newest Groups could be interlinked to guarantee consistency with the provisions relating to the same issues of the procedure already covered by the work of older Groups. In this sense, the Co-reporters of the third-cycle 'Costs' WG, represented by Eva Storskrubb, and 'Judgments'



Joint Steering Committee Meeting.

WG, represented by Christoph Alexander Kern and Chiara Besso, presented progress reports and explained the nuances of their subject-areas. These presentations triggered an intensive and fruitful discussion with debates focused on, among others, costs allocation and costs shifting, security for costs of civil procedure, funding alternatives and transparency; the definition of 'judgments', the necessary elements of a judgment, the form of the delivery of a judgment, default judgments and other issues. It was decided that the WGs would remain in contact with the horizontal 'Structure' WG to ensure that the particular issues do not overlap in the drafts. The meeting on 7 April was concluded in the early afternoon. Both Diana Wallis and José Angelo Estrella Faria expressed their words of appreciation for the work advanced by all Members of the Project, and their confidence in the relevance of the results of the Project.

## Meeting of the 'Judgments' WG

On 21 February, Members of the 'Judgments' WG convened for the first meeting of 2017 in Basel (Switzerland). The meeting, which was kindly hosted by the University of Basel, provided an opportunity to discuss some of the fundamental questions of the Project, including the structure of the draft rules on judgments, and default judgments; and resulted in a first draft of the general part of the rules.

Later this year, some of the Working Group Members met again on the occasion of the Joint Steering Committee Meeting, which took place in Rome (Italy) between 6–7 April. The Co-reporters of the Group, Professor Chiara Besso and Professor Christoph Alexander Kern, presented the first Progress Report of the Group.

## Meeting of the 'Provisional and Protective Measures' WG

Another Working Group convened their meeting on 3 March in Rotterdam (the Netherlands). Members of the 'Provisional and Protective Measures' WG gathered to finalise the draft set of rules and discussed the incorporation of new provisions, as well as the revision of some of the existing parts of the draft.

In particular, the WG discussed whether the provisions on cross-border issues should be included



WG Provisional Measures' meeting in Rotterdam on 3 March.

in the draft, as well as the form and exact wording they should use to formulate the final version of rules on asset preservation, interim payments, evidence preservation, and on order to perform or to abstain.

The WG Members also had another opportunity to discuss the final provisions of the draft at the Joint Steering Committee meeting in April in Rome.

## Meeting of the 'Parties' WG

From 3–4 March, the 'Parties' WG met in Paris (France). This was the second official meeting of this Working Group, with discussions focussing on the structure and scope of the rules; identification of main issues, such as different concepts across Europe (on 'joinder', 'intervention', 'third party notice'), the role of public prosecutors in civil proceedings, the rules on the stay of proceedings due to the death of a party, the loss of litigation capacity, and other issues.

The WG also considered various sources to be taken into account while drafting the provisions on parties, and prepared the material and questions for the discussion at the presentation of the first progress report during the Joint Steering Committee Meeting in April in Rome.



This project is co-funded by the European Union



WG Parties' meeting in Paris on 3-4 March.

## Upcoming Project Meetings:

7 September (Vienna): Panel Session

16–17 November (Vienna): Joint Steering Committee Meeting

## The ELI's New Secretary General

Dr Vanessa Wilcox, LL.M (Cantab) has recently been appointed Secretary General of the ELI. She completed her undergraduate law degree (LLB) with First Class Honours in 2004 at London Guildhall University and was awarded the City of London's Recorder's Prize for the most outstanding academic achievement among law graduates in 2003/4. In 2005, she attended BPP Law School (Holborn, London), where she was awarded a distinction for the legal practice course. Dr Wilcox holds a Master's Degree in Commercial Law (LL.M) from the University of Cambridge (2006) and a doctoral degree from the University of Vienna (2014), for which she won the Dr Maria Schaumayer-Stiftung prize (2015) and the *Verband österreichischer Banken und Bankiers* (The Association of Austrian Bankers) prize (2016). Her thesis, 'A Company's Rights to Damages to Non-Pecuniary Loss', is published with Cambridge

University Press. Among other things, Dr Wilcox is a Fellow of the European Centre of Tort and Insurance Law (ECTIL, since 2009) and is an Honorary Professor of Yantai University Law School (China, since 2015).



Secretary General Dr Vanessa Wilcox.

She lectures at the University of Vienna and has held positions at other universities in Austria and abroad.

*"It is a great pleasure and honour for me to announce that I shall serve as the new Secretary General of the European Law Institute (ELI) from May 2017. The ELI is an oasis in which legal professions from distinct quarters and perspectives can come together in the hope of improving the quality of European Law. In my role as Secretary General, I am committed to*

*maintaining the ELI's standing by encouraging and intensifying its ongoing activities and fostering new long-term partnerships. I look forward to personally connecting with the ELI's bodies and members and very much welcome your comments, feedback and ideas."*

*- Dr Vanessa Wilcox*

## Membership

Maintaining diversity with regard to areas of expertise, nationalities and different professional backgrounds will be essential to keep the ELI a vibrant community of legal professionals, a unique meeting point for its Members and to add legitimacy of projects approved by this broad constituency.

In order to achieve this, the Membership Committee announces different focal points for members throughout the year.

All other applications of excellent lawyers are, as always, highly desirable too, irrespective of this

current focus. Membership applications are made online, directly through the [ELI website](#). Detailed information on what the ELI currently does and stands for can be found on the website as well.

**Membership Fee:** if you have not yet paid your membership fee for 2017, please do so by bank transfer or PayPal or by filling in the SEPA Direct Debit mandate form, which you find [here](#). Please [contact the Secretariat](#) with any questions arising in this context.

**Areas of Law:**

**Professions:**

**Administrative, Constitutional Law**

**Notaries, Judges**

## ELI Representation

### President Diana Wallis at Warwick Congress (UK)



President Diana Wallis at Warwick Congress.

Diana Wallis participated in the first Warwick Congress, which is a novel student-run initiative enthused by the ambition to educate students from all backgrounds and interests. The primary motive is to unite the disciplines of Finance, Economics, Law and Politics to a single platform thus allowing students to gain a holistic perspective on the issues surrounding the world today.

President Wallis spoke about 'Legal Pluralism, Ordering Globalisation; New Identities or Old Boundaries'. Bringing together her own legal and political experience.

### International Conference on Dispute Resolution of Consumer Mass Disputes in Haifa (Israel)

President Diana Wallis was amongst a number of ELI Fellows presenting at the 2nd Haifa International Conference on 'Dispute Resolution of Consumer Mass Disputes - Collective Redress, Class Actions and ADR' from 16– 7 March 2017.

The Conference followed on from a similar successful event last year. There is particular interest given the coming review of the European Commission Recommendation of 11 June 2013 on 'Common Principles for Injunctive and Compensatory Collective Redress Mechanisms in the Member States Concerning Violations of Rights Granted under Union Law' (2013/396/EU) upon which the ELI

produced a Statement back in 2014, which you can find [here](#).

Diana Wallis emphasised that it was an exceptional Conference with good international comparative presentations, and outstanding for all delegates was the enthralling lecture of the history of the US class action as told by Professor Arthur R. Miller of New York University.

President Wallis, who spoke about cross-border enforcement and ADR, commented that 'there was certainly now much food for thought for follow-up work by the ELI.'

### European Law Faculties Association (ELFA) 2017, Brno (Czech Republic)

On 19–21 April 2017, the European Law Faculties Association, an EU Institutional Observer, held their Annual General Meeting and Conference. This year's topic was 'Legal Education in Changing Europe', and, therefore, ELI President Diana Wallis participated in a plenary session and gave an insight on 'Developing

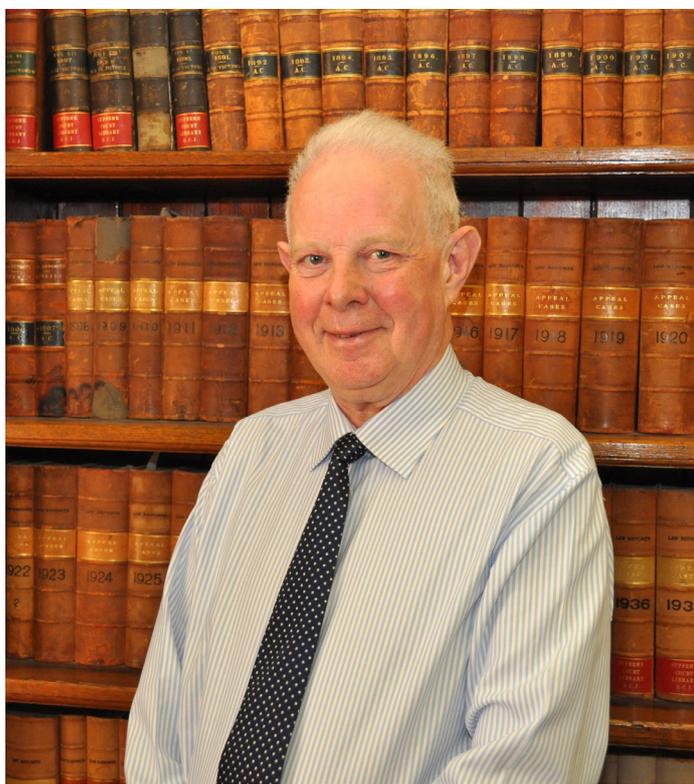
European Law in Challenging Times'. President Wallis used this opportunity to display the work of the ELI and its European Young Lawyers Award. She was also asked to present the ELFA Award 2016 to the authors of the two best European Law PhD theses.

## ELI at the European Forum Alpbach



**EUROPEAN  
FORUM  
ALPBACH**

The ELI is delighted to officially announce being part of this year's European Forum Alpbach. On 28 August 2017, there will be a breakfast with Lord John Thomas as a speaker. The topic of his exciting speech will be 'Enemies of the People? The Role of an Independent Judiciary in times of populism'. Vice-President Christiane Wendehorst will be the Chair.



Lord John Thomas, Lord Chief Justice of England and Wales.



© Maria Noisternig/Alpbach in Tyrol (Austria).

This year's Legal Symposium will compare and examine parallel existing legal systems, and reflect on differing legal models and hypotheses currently discussed. In particular, it is relevant and necessary to judge how much conflict there is between the Continental European and the Anglo-American legal systems. Even from a neutral legal standpoint, the main question now is whether a 'trade war' is in the making. The state of coexistence between the Continental European legal system and the Sharia legal system in Europe also calls for this discussion. Further, this question must be examined at a national level, where nation-states have respective legislations through which they handle law and achieve justice through mediation, diversion and severe criminal jurisdiction. A glimpse into multilateral trade agreements and their selected arbitration procedures is also timely.

Further information about the European Forum Alpbach can be found at [www.alpbach.org/law](http://www.alpbach.org/law).

## Münster Colloquia on EU Law and the Digital Economy, Münster (Germany)

On 4–5 May, ELI Vice-President Christiane Wendehorst will give, on behalf of the ELI, the welcome address at the Münster Colloquia on EU Law and the Digital Economy. This year's topic will be 'Trading Data in the Digital Economy: Legal Concepts and Tools'. In line with the aim of the Münster Colloquia, the contributions will analyse the various different legal concepts and tools in order to illustrate legislative

options at European level to tackle the challenges in the trade of data.

Vice-President Wendehorst will contribute to these issues in a discussion panel moderated by Dirk Staudenmayer, the Head of Unit (DG Justice and Consumers of the European Commission).

## SIG Updates

The ELI Special Interest Groups (SIGs) were officially launched during the 2015 ELI Annual Conference. Already at that Conference, some SIGs discussed their potential areas of focus and planned ahead. One year later, in September 2016, SIGs were once again given the opportunity to meet in Ferrara (Italy) to summarise the results of their work and their achieved medium-term progress.

Some of the SIGs also scheduled further meetings to be held in 2017, which we are pleased to announce in this issue:

### Administrative Law

The Administrative Law SIG will conduct, in cooperation with Andrásy University, ELTE University and the Hungarian Supreme Court of Justice (Kúria), a conference in Budapest on 7–8 June 2017. This Conference will be kindly supported by the Konrad-Adenauer-Stiftung.

On the first day, twelve Members of the SIG will present their thoughts on different topics around administrative law. The evening will be topped off by a reception at the Austrian Ambassador', H. E. Elisabeth Ellison-Kramer's, residence. On 8 June, participants will be offered the chance to visit the *Kúria*, which includes a guided tour and a talk with its President, Péter Darák. Further information is available on the SIG's [website](#).

### Business and Financial Law SIG

The Business and Financial Law SIG is planning an Inaugural Workshop on 23 June 2017 in Vienna (Austria). The event will gather experts of various disciplinary and geographical backgrounds and take place at the Faculty of Law (Juridicum) of the University of Vienna. The Workshop will feature a series of three plenary panels on the following topics: (1) Financial Transparency and Accountability of Corporate Groups and Financial Intermediaries; (2) Groups of Companies, Shareholder Rights and Obligations, and Related Responsibilities and Liabilities; and (3) Cross-Border Mobility of Companies.

The Workshop aims to generate an open discussion with all the participants, review and develop a constructive critique of existing laws and regulations, while setting plans for the future work of the SIG in the hope of contributing to European law-making on these matters. To register, please follow [this link](#). The agenda can be found [here](#).

### Digital Law SIG

The Digital Law SIG held a meeting in Hull, UK, at the ELI Conference on Digitalisation on 31 March 2017. The Proposals from the following groups were discussed: the Post-CESL Group, the Platform Sub-group, the Free Flow of Data Sub-group, the IoT Sub-group, the Big Data Sub-group, the Autonomous Vehicles Sub-group, and the E-User Self-Protection in an E-Intrusive World Sub-group.



Meeting of the Digital Law SIG in Hull on 31 March 2017.

### Dispute Resolution SIG

The Dispute Resolution SIG gathered on 28 April 2017 in Leuven (Belgium). The meeting was kindly hosted by the Law Faculty of the Catholic University of Leuven. Participants continued the discussions on the topic of the Investor-State Dispute Settlement (ISDS) mechanism already touched upon in the SIG's first meeting in Wiesbaden (Germany) in February 2016, and they considered another interesting topic on the European Court for Commercial Matters. More information on this Meeting will be provided in the next issue of the Newsletter (May-June).

## HUB Updates

### Spanish Hub

On 9 May 2017, the Spanish Hub is coming together for its second meeting, which will take place in Granada. Presentations around the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECHR) linked to 'internal law' will be given. Every speaker will have ten minutes for their oral presentation, which will be conducted in working groups organised by subject.

The agenda is available [here](#). Further information about is available [on the website](#).

Additionally, a seminar on Property Law will be held in Madrid on 12 June 2017. The seminar is co-organised with the *Colegio de Registradores de España* and will focus on various issues related to the real estate credit market in Europe. Experts from Austria, France, Germany, Italy, Spain and the Netherlands will address presentations related to the state of play in their respective countries. More details are available [here](#).

Another event supported by the Spanish Hub, the 'III Spanish and German Conference', will take place in Madrid on 19–20 October 2017. The Conference will address a variety of topics regarding the 'Contracts for the Supply of Digital Contents' from the perspectives of Spanish and German law. The event will be organised by the University Carlos III in collaboration with the University of Münster. Further details can be found on our [website](#).

At the present time, ten ELI hubs have been created, namely the:

Austrian, Croatian, French, German, Irish, Italian, Polish, Slovenian, Spanish and UK Hubs. The Hungarian Hub will be established in the fall of 2017.

Should you wish to establish a new Hub, please contact the [ELI Secretariat](#).



Launch of the Spanish Hub in May 2016.

### German Hub

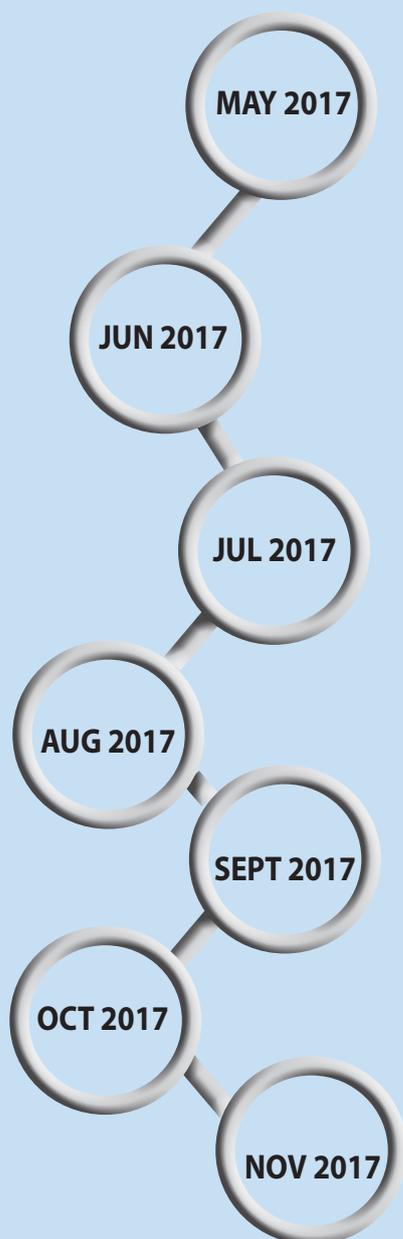
On 6–7 July 2017, a Conference on 'Platforms - Business Models and Contracts' is taking place in Bayreuth (Germany). This Conference is co-organised by the ELI German HUB in cooperation with the *Ernst von Caemmerer* foundation and the Bayreuth Research Center on Consumer Law.

On the first day, the focus will be on legal and economic questions concerning platforms, their business models and interdisciplinary exchange. Furthermore, an outlook on comparative law perspective will be given.

On the second day of the Conference, participants will deal with the realisation of the concepts and problems that might arise, such as the determination of the content of the contracts, the responsibility of platform operators and advertising companies and feedback systems. The perspectives of administrations, practitioners and scholars will also be addressed.

Further information is available [here](#).

## Some of the upcoming events - Save the date!



- **4–5 May, Münster:** Colloquia on EU Law and the Digital Economy
- **9 May, Granada:** Meeting of the Spanish Hub
- **7–8 June, Budapest:** Administrative Law SIG Conference
- **12 June, Madrid:** Seminar on Property Law
- **18–20 June, Utrecht:** Public Workshop on Family Law
- **23 June, Vienna:** Business and Financial Law SIG Inaugural Workshop
- **6–7 July, Bayreuth:** Conference on Platforms co-organised by the German Hub
- **28 August, Alpbach:** ELI at Alpbach Forum's Legal Symposium
- **6–8 September, Vienna:** ELI 2017 Annual Conference and General Assembly
- **19–20 October, Madrid:** III Spanish and German Conference supported by the Spanish Hub
- **16–17 November, Vienna:** ELI-UNIDROIT Joint Steering Committee Meeting
- **30 November–1 December, Trier:** Public Workshop on Family Law

### *The ELI Mission*

*Building on the wealth of diverse legal traditions, the European Law Institute's mission is the quest for better law-making in Europe and the enhancement of European legal integration. By its endeavours, the ELI seeks to contribute to the formation of a more vigorous European legal community, integrating the achievements of the various legal cultures, endorsing the value of comparative knowledge, and taking a genuinely pan-European perspective.*

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