

Minutes of the ELI Council Meeting 5 September 2019, Vienna

Venue: Vienna City Hall, Vienna (Austria)

Present:

Chair: Zimmermann, Reinhard (Speaker of the Senate, until 18:30)
Wendehorst, Christiane (ELI President, after 18:30)

Council Members

Anderson, Ross Gilbert	Lord Thomas, John
Avgerinos, Yannis (proxy for Clough, Mark)	Malberti, Corrado
Avolio, Francesco	McKechnie, William Martin
Bargelli, Elena	Neumayr, Matthias Simon
Bielska-Sobkowicz, Teresa Amalia	Možina, Damjan
Biondi, Yuri	Philippe, Denis (proxy for Gilligan, Paul)
Bray, Robert	Pichonnaz, Pascal (proxy for Benedicte Fauvarque-Cosson after 18:15)
Busch, Christoph	Povlakić, Meliha
Cavalier, Georges	Pretelli, Ilaria
Comba, Mario	de Pretis, Daria
Cvejić Jančić, Olga	Rodriguez de las Heras Ballell, Teresa
Dollani, Nada	Schroeter, Ulrich Gerd
Fauvarque-Cosson, Bénédicte	Shirvindt, Andrey Mikhailovitch
Forschner, Julius	Sirena, Pietro
Gammeljord, Anne Birgitte	Storme, Matthias (proxy for Karner Graziano, Thomas)
Gimeno-Ribes, Miguel	Tremosa, François Maurice
Giubboni, Stefano	Twigg-Flesner, Christian Willm
Guercio, Laura	Wendehorst, Christiane
Iamiceli, Paola	Wiewiórowska-Domagalska, Aneta Dzeny
Josipović, Tatjana	Zalar, Aleš
Keglevic Steffek, Ana	Zlătescu, Irina
Király, Miklós	Zoll, Fryderyk Andrzej
Klip, André (proxy for Kaiafa-Gbandi, Maria)	

Ex-Officio Council Members

Council of the Notariats of the European Union (CNUE): Radoi, Raul

Senate

Jacobs, Sir Francis

Members of the ELI Secretariat

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

The meeting opened at 17:35.

I. Elections of the Nominate Positions Within the Executive Committee

- (1) In opening the meeting, Reinhard Zimmermann said that the first task of the newly elected ELI Council is to elect the Executive Committee. Zimmermann proceeded to explain the voting procedure for the election of the new Executive Committee. There are seven positions, four of which are nominate (these being for the President, the two Vice-Presidents and the Treasurer) and three are innominate, ie without a specific office. The office of the two Vice-Presidents arises from a change to the ELI's Statute and Election Byelaw. He went on to inform those present that in accordance with the ELI Statute, as Speaker of the Senate, he called a search committee tasked with proposing the candidates for the positions of President, the two Vice-Presidents and the Treasurer. The committee, consisting of Sabino Cassese, Arthur Hartkamp, Lord Jonathan Mance, Eddy Wymeersch and Reinhard Zimmermann, unanimously recommended Christiane Wendehorst for the position of President, Lord John Thomas and Pascal Pichonnaz for the positions of First and Second Vice-Presidents respectively, and Denis Philippe for the position of Treasurer. Zimmermann invited the candidates to present themselves and inform those present of how they intend to contribute to ELI.
- (2) **Christiane Wendehorst** began by mentioning that she is a professor at the University of Vienna and has had the great privilege of being among the Founding Members of ELI and an even greater privilege of serving as Treasurer, then Vice-President and as President of ELI for the last two years. This has been possible only with the help of amazing individuals in all the bodies of ELI, in particular on the Executive Committee, but also in the Council and amazing members who supported her in various respects. Wendehorst continued that if the Council were prepared to entrust her with this office for another two years, she would be prepared to carry on. Wendehorst recalled her list of 24 goals for 24 months that she had drafted at the previous elections. She revealed that she had gone through the list the night before to check whether she could really stand again. But for two points, where there were reasons to postpone them, Wendehorst felt that ELI more or less achieved what was intended to have been achieved but nevertheless added that ELI can always do better. If elected, Wendehorst continued, she would carry on her strategy and expand the list. Among other things, she said that consolidating the structure of the organisation and in particular achieving a sustainable funding scheme for ELI was one of her priorities. She would also place an emphasis on defining ELI's projects strategy for the next few years. Wendehorst felt that this is crucial since a number of flagship projects will be coming to an end soon. She would continue to reach out to other organisations internationally and, together with the Membership Committee, attract the best brains from all over Europe and the best institutional members and she would make an effort to reach out to other continents, namely Asia and Africa, where she thinks ELI could still do better in terms of international relations. Wendehorst concluded by saying that if the Council were prepared to entrust her for another two years, she would be happy to carry on.
- (3) **Lord John Thomas** said he agreed entirely with what Wendehorst said about the future direction of the Institute. He was one of the Founding Members of ELI and has been on the Council for a number of years. For the last two years, he has been on the Executive Committee and has done two things: carried out ELI's self-evaluation, which was very timely as it allowed ELI to identify bits of the organisation that could work a little better. Secondly, changes implemented to SIGs and Hubs, for example, one of the problem areas identified in the evaluation, have worked quite well and now have

a much better structure. He also worked closely with Wendehorst in trying to get projects into an area where ELI has a little bit more control. While that may sound managerial, Lord Thomas added that with an organisation of this kind, it is very important that we run it professionally because we live or die by our reputation on projects and the most important thing is to get our projects strategy right, to get the quality of them of the highest kind. He added that he wishes to work very closely with Wendehorst to try and ensure that ELI take its proper position amongst the really leading institutes of the world, not merely Europe. Lord Thomas concluded by saying that if the Council intends to elect him on this basis, he would be happy to stand as one of the Vice-Presidents.

- (4) **Pascal Pichonnaz** introduced himself as a professor at the University of Fribourg in Switzerland, where he teaches contract law, European law, consumer law and Roman law. He is also a Founding Member of ELI but was elected to the ELI Council only two years ago. He found it really fascinating to be a part of a Council that thoroughly discussed the content of various projects in depth. Projects should be the core business of ELI. Since last year he had the pleasure of co-chairing, with Walter Doralt, the Membership Committee, which was a way to get more insight into the issue of membership and how to attract more (and prominent) people. The role also entailed consideration of what ELI can offer them in exchange for being members. Here, Pichonnaz felt, ELI might improve some aspects. Pichonnaz added that should the Council elect him, he would certainly also work on this and other issues. As he comes from Switzerland, Pichonnaz pointed out that his membership in the Executive will send a signal that ELI is not only about the European Union, but also about Europe as such.
- (5) **Denis Philippe** introduced himself as a professor at KU Louvain and a lawyer in Brussels and Luxembourg. He has been the ELI Treasurer for two years; a heavy task. Philippe said his intention for the future is to ensure that ELI is more efficient. There have been very important improvements in the last two years, but there are still some technical issues that must be improved, which will be his first task. ELI still has problems with membership fees: we need to have a clearer view on membership fees and we need to increase ELI's income, including through the Fundraising Committee, where he acts as co-chair with Robert Bray. Both try to get more members through the General Council of the Bar of England and Wales, the Belgian Bar, etc. When he first stepped in, Philippe revealed, the finances were shaky but things have improved since then and his intention is to continue in this direction should he be elected.
- (6) Zimmermann explained that there are no other candidates. Other candidates would have had to be nominated four weeks ago but no other nominations were made so only the above proposals exist. While the Statute calls for a ballot in writing, Zimmermann proposed to proceed by way of a show of hands in light of the fact that there is only one candidate per nominate position. There was no objection to his proposal.
- (7) Zimmermann began with the position of President. With a vote by a show of hands, Wendehorst was unanimously elected as President of ELI (with one abstaining vote). Zimmermann congratulated Wendehorst. Wendehorst thanked the Council for their trust and confidence in her.
- (8) With a vote by a show of hands, Lord Thomas was unanimously elected First Vice-President of ELI (with one abstaining vote). Zimmermann congratulated Lord Thomas.

- (9) With a vote by a show of hands, Pichonnaz was unanimously elected Second Vice-President of ELI (with one abstaining vote). Zimmermann congratulated Pichonnaz.
- (10) With a vote by a show of hands, Philippe was unanimously elected as Treasurer of ELI (with one abstaining vote). Zimmermann congratulated Philippe.

II. Elections of Innominate Positions Within the Executive Committee

- (11) Zimmermann proceeded to the three innominate positions. He revealed that Anne Birgitte Gammeljord, a member of the current Executive is a candidate. Gammeljord confirmed this. Zimmermann enquired into whether candidates for the other two positions exist. François Tremosa nominated himself. Vanessa Wilcox revealed that Fausto Pocar had signed a declaration of acceptance of appointment within the Executive indicating his intention to run but then said he would be present and so did not send in a statement introducing himself and is now not present to introduce himself. Pietro Sirena nominated himself whereas Fryderyk Zoll nominated himself and Meliha Powlakić. She accepted the nomination. Matthias Storme was nominated. However, Storme did not accept this on the grounds of a geographical imbalance on the Executive (since the Treasurer is also Belgian). Zimmermann closed the nomination process. He invited the nominees to present themselves.
- (12) **Anne Brigitte Gammeljord** introduced herself as a practising Danish lawyer. She was President of the Council of Bars and Law Societies of Europe (CCBE) and has been a Member of ELI since 2012 and a member of the Council and its Membership Committee for a number of years. Gammeljord added that she was elected to the Executive a couple of years ago and that she adds a Nordic and a lawyer's perspective to it.
- (13) **François Maurice Trémosa** is a notary in Toulouse in France specialising, among other things, in family and succession law. Among other initiatives, he worked in ELI's project on Empowering European Families. Were he to be elected, Trémosa stated that one of his goals would be to attract more members of the French community to ELI.
- (14) **Pietro Sirena** is a professor of civil law and private comparative law at Bocconi University in Milan and since last November has been Dean at the University's Law School. His special interest is in the interplay between European law and common legal traditions, where he believes much could still be done in a sense of discovering the roots of European law within national legal culture. He added, following on from what Wendehorst had mentioned earlier, that he also has an interest in furthering relations between Europe and Latin America and the legal culture of the two continents.
- (15) Zimmermann said that given Fausto Pocar's absence, there would be no presentation on him.
- (16) **Fryderyk Zoll** explained that he is based at Jagiellonian University in Kraków and at Osnabrück University. This is also the reason why he decided to run as candidate as he would like to ensure more representation of Eastern Europe in ELI. He explained that he has experience in drafting proposals for big projects including for the Draft Common Frame of Reference and the Acquis Group and would contribute this experience as well as take advantage of his good network, should he be elected.

- (17) **Meliha Powlakić** revealed that she was surprised and honoured by the nomination. She assumed the nomination owed to the fact that she comes from Bosnia and Herzegovina. Powlakić said that she is a lawyer and a full-time professor at the University of Sarajevo Law School, where she teaches civil law and private law. Diversity is important for her and since she comes from the western Balkans, she would try to attract more members from this region to ELI, as it was always her aim and task to promote ELI.
- (18) Zimmermann explained the voting procedure for the innominate members of the Executive Committee. Each Council member entitled to vote can write up to three names on the ballot paper. If there are more than three names on the ballot, it will be invalid. There can be less than three names, but not more. Once collected, he and Wilcox would proceed with counting the ballot papers while the meeting goes on, following which he would announce the results.
- (19) Having counted the votes, Zimmermann revealed that the outcome was so close that he and Wilcox had to count again. He proceeded to announce the results of the elections. The following candidates were successful:
- Anne Birgitte Gammeljord (37 votes)
 - Fryderyk Zoll (26 votes)
 - Pietro Sirena (24 votes)
- (20) Zimmermann asked whether the elected candidates accepted their election. They did. Zimmermann handed over the chair of the remaining part of the Council meeting to Wendehorst and left.

III. Standing Council Committees

- (21) Wendehorst began by thanking the Council for their trust and confidence. She explained that this is a very short Council meeting with two other standard items on the agenda, which the Council needs to address. One of these is the ELI's Council standing committees (Membership Committee and Fundraising Committee); the other is the announcement of the next Council meeting and a couple of explanations on how the Council works.
- (22) Wendehorst started with the latter and explained that there are normally two physical meetings of the Council, one usually in February and normally in Vienna. This is usually for two days and usually takes place before the Lawyers' Ball. The next one is scheduled for 20–21 February 2020. The other Council meeting is the one around the Annual Conference. Whether this should be extended to two days is a point that needs to be discussed. Apart from the physical meetings, there is also some work that is done remotely, in between meetings. She continued that members of the Council will be contacted regularly by the Secretariat with requests to comment on drafts, vote remotely, etc. Wendehorst said that it is of the essence that Council members keep themselves informed, that they read draft ELI outputs, provide the Executive with guidance, also between meetings, and that they cast votes electronically, when called to do so. One of the first issues the Council will be confronted with is the amended proposal of the Business and Human Rights project. Wendehorst welcomed questions. There were none.

- (23) Wendehorst proceeded with another standard item on the agenda, namely the Council standing committees. According to the Election Byelaws, Council members can nominate themselves to join the committees either at this meeting or within one week of the meeting by contacting the Secretariat.
- (24) She then handed over to Pichonnaz, chair of the Membership Committee, to introduce the work of the Committee. Pichonnaz said that the Membership Committee meets twice a year to decide strategies and to attract new valuable members to ELI, members that represent diversity and come with new ideas. He emphasised that Vanessa Wilcox and the whole Secretariat help the Committee in this respect. At some point the Committee has to review its strategies to evaluate what still works and what needs to change. Wendehorst thanked Pichonnaz and handed over to Philippe.
- (25) Philippe explained that he had the privilege of co-chairing the Fundraising Committee with Robert Bray, who is very active in this regard and through whom ELI secured the General Council of the Bar of England and Wales as a member. He further explained that the Fundraising Committee works in synergy with the Membership Committee, as ELI gets some of its funding from new members. He emphasised the importance of a committed Fundraising Committee, because even though ELI is in good financial shape we never know what tomorrow brings. He welcomed interested parties to join the Committee.
- (26) Wendehorst thanked Philippe and asked those present to indicate their willingness to join either or both committees. Some of those present indicated their preparedness to join the standing committees. Wendehorst thanked them for being willing to serve on the committees.

IV. Closing Remarks

- (27) Wendehorst said that she looked forward to working with the Council. She emphasised that the task of the Executive is to implement what the Council decides. Strategies developed by the Executive are submitted to the Council and it is the Council that decides on the directions ELI is going to take.
- (28) She congratulated everyone who was elected and closed the meeting.