



ELI

EUROPEAN
LAW
INSTITUTE

ELI Updates

February 2014

WELCOME FROM ALDO BULGARELLI, PRESIDENT OF THE COUNCIL OF BARS AND LAW SOCIETIES OF EUROPE

Dear ELI Members and Friends,

As President of the Council of Bars and Law Societies of Europe (CCBE) and a member of the ELI, I am delighted to have the opportunity to address this issue of the ELI newsletter. The CCBE represents the bars and law societies of 32 member countries and 12 further associate and observer countries, and through them more than 1 million European lawyers. Since our founding in 1960, the mission of the CCBE has been to ensure that the rule of law, and the role of the legal profession in it, are promoted as vigorously as possible. The ELI's quest for better law-making in Europe and the enhancement of European legal integration therefore complements the CCBE's longstanding work, and as such, the CCBE has been an Institutional Observer member of the ELI since 2011.

The CCBE, like the ELI, seeks the formation of a thriving European legal community as well as the evaluation and stimulation of the development of EU law, legal policy and practice. The CCBE is concerned by the current state of the administration of justice, especially as governments slash legal aid budgets and professional secrecy is under threat by government mass surveillance. With Europe slowly emerging from economic crises, justice and the rule of law are sometimes viewed as an obstacle to growth. Austerity policies and increasing court fees discourage citizens and businesses from taking their conflicts to courts. The CCBE therefore positively views the launch of "Justice for growth", a DG Justice (European Commission) programme that focuses on justice as a factor of economic growth. Likewise, the CCBE is monitoring the forthcoming European elections, as we believe in the importance of the EU in continuing its development of forward-thinking policies in the area of justice, fundamental rights and the rule of law - for Member States and the wider world.

With this in mind, both the ELI and the CCBE strive to identify legal developments in areas within the competence of Member States that are relevant at EU level. The CCBE continues to pursue EU-funded e-justice programmes that promote the development of information and communication technologies in Member States' judicial systems, such as: Find-A-Lawyer 1 (electronic lawyer search facility being built on the European Commission's e-Justice portal); Find-A-Lawyer 2 (electronic role verification of lawyers); e-CODEX (linkage of member states' national e-justice systems); and European Training Platform (website for European lawyer training courses). These legal developments benefit citizens, practitioners and the administration of justice.

As lawyers and as members of the ELI, we must continue to work together to consider and, where possible recommend remedies for, the important issues facing our profession so as to further our missions in the field of European legal development.

Aldo Bulgarelli, CCBE President



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2014 Projects Conference and General Assembly: Latest News

Selma Povlakić and her colleagues at the Secretariat are working together with members of the University of Zagreb Law Faculty (co-organiser of the 2014 Projects Conference and General Assembly) to make preparations for the event, which will take place in Zagreb on **25 and 26 September 2014**.

Members of the Zagreb Law Faculty are providing invaluable support in the co-ordination of the event and are dedicated to ensuring that all attendees are treated to an impressive, informative and productive two days.

The venue for both the Conference and General Assembly will be the **Croatian State Archives**, a spectacular art nouveau building in the centre of Zagreb



Hrvatski državni arhiv, Croatian State Archives

which celebrated its centenary last year. The archives have resided in their allocated rooms since its completion in 1913, although the building has also served as the National and University Library.

It can also be announced that none other than **Ivo Josipović, President of the Republic of Croatia**, has accepted an invitation to open the Projects Conference on 25 September.

More details about the event will continue to be provided over the coming months, and registration will be open in the late spring. Please try to accommodate these dates in your diaries; this year's Conference promises to be of a very high calibre!



Trg bana Jelačića, Zagreb's main square

UK Hub Event in London

On Monday 3 February 2014 members of the ELI's UK Hub and the Bar European Group (BEG) organised a seminar entitled: "The protection of fundamental rights under the common law, the ECHR and the Charter: take Strasbourg into account but be bound by Luxembourg?". The seminar was very well attended with over 75 guests. Amongst them were academics from the UK's leading universities, practitioners from renowned law firms and civil servants. Current ELI President Diana Wallis and former President Sir Francis Jacobs also attended the seminar. An introduction was provided by Charles Brasted of Hogan Lovells, at the premises of which the seminar was held.

ELI Senate Member Lord Jonathan Mance spoke alongside Nuala Mole, founder of the Advice on Individual Rights in Europe (AIRE) Centre, a charity whose mission is to promote awareness of a person's rights under European law and assist marginalised individuals and those in vulnerable circumstances to assert those rights.

Eric Metcalfe, a Barrister at Monckton Chambers completed the panel, and the discussions were chaired by Bar European Group President Lord Justice John Laws.

The BEG is a Specialist Bar Association of the General Council of the Bar of England and Wales and has been an Institutional Observer of the ELI since 2012. For more information on the ELI's current Institutional Observers please see page six of this newsletter.

It is hoped that the recent seminar in London has helped to spread awareness of the ELI and its work in the UK. Making information about the ELI available to national jurisdictions or specific professional groups, and allowing people to attend ELI events in their immediate locality is one of the aims of ELI hubs. Official guidelines on the nature and administration of hubs and their activities are on the agenda to be discussed at the ELI Council meeting on 28 February 2014.



From left to right: Nuala Mole, Eric Metcalfe, Lord Jonathan Mance, Lord Justice John Laws.



Slovenian Hub to be launched

The launch of a Slovenian Hub of the ELI will take place in Ljubljana on 14 April 2014.

The event will take place in the National Council of the Republic of Slovenia, in the building of the Parliament, in the afternoon of the 14 April. The event will be opened by the President of the National Council, who will introduce the first speaker, **Borut Pahor, President of the Republic of Slovenia**. ELI President Diana Wallis will then introduce the ELI and its work, and Slovenian Council members Verica Trstenjak and Boštjan Zalar will talk in more depth about ELI projects. Marko Ilešič, a judge at the Court of Justice of the European Union, is also scheduled to deliver a speech.

Discussions with other possible speakers, for example leading Slovenian academics in the field of law and Supreme Court judges, are underway.

There will be simultaneous translation between Slovene and English, and it is hoped that many ELI Members and friends both in Slovenia and in the surrounding area will be able to travel to Ljubljana for the event.

The launch of a Slovenian Hub will mean that ELI hubs are active in five European countries: France, the UK, Austria, Germany and Slovenia.



Slovenian Parliament Building, Ljubljana © Silosarg

Joint conference on Teaching and Research in Comparative and International Insolvency Law

The Netherlands Association for Comparative and International Insolvency Law (NACIIL) and the Academic Forum of Insol Europe are holding a joint conference on 14-15 April 2014, in Leiden, the Netherlands. The topic is Teaching and Research in Comparative and International Insolvency Law. Over twenty speakers will share their experiences in training students, judges or practitioners in other legal cultures and in comparing legal systems. During the forum and workshops, cross-border judicial cooperation will be discussed, as well as professional guidance for insolvency administrators and conflicting interests when saving banks or companies in financial distress. The latter workshop will include topics of the ELI's Business Rescue project. Non-Dutch speakers will be Professors Bariatti (Milan), Lynch-Fannon (Cork), Madaus (Halle-Wittenberg and co-reporter on the ELI project), Omar (Nottingham), Paulus (Berlin), Van Dam (London), Vanmeenen (Antwerpen) and Judges Vallender (Cologne), Richards (London) and Verougstreate (Brussels). On 14 April at 16:00 Professor Bob Wessels, co-reporter on the ELI's Business Rescue project will give a valedictory lecture in the Academy building (Groot Auditorium).

For more information, see: www.naciil.org.



Joint Conference
INSOL Europe Academic Forum
http://www.insol-europe.org/academic_forum

&

Netherlands Association for Comparative and International Insolvency Law (NACIIL)
<http://www.naciil.org>

Leiden 14-15 April 2014

Theme:
Teaching and Research in Comparative and International Insolvency Law
Location: Sterrewaard / Old Observatory Building

Monday 14 April
13.00 Registration; coffee
13.10 - 13.40 Welcome address
Professor Christoph Paulus – Chair Academic Forum, Humboldt University, Berlin
Professor Bob Wessels – Chair NACIIL
13.40 - 14.20 **Workshop**: Chair - Professor Alex-Gert Cussemann, Vice-dean Leiden Law School
Professor Ines Lynch Fannon, University College Cork
ELI and IEL Comparative Corporate Governance: Empiricism and Credibility as Corporate Stakeholders – Understanding and Teaching Path Dependency
Dr Robert de Waeg, University of Amsterdam
Comparing Avoidance Actores/Acto Passiva in England, Germany and the Netherlands
14.20 - 15.25 Discussion
14.35 - 15.15 **Teaching Chair** - Prof. Paul Omar, Nottingham Law School
Prof. Cees van Dam, King's College London
Teaching Tort Law to English Students
Prof. Christoph Paulus
Teaching Insolvency Law around the world
15.15 - 15.35 Discussion
Close of first part of the joint conference
15.35 - 16.05 Coffeebreak in Academy Building

Those interested in attending Professor Wessels' lecture should register at: www.oraties.leidenuniv.nl.

PhD researchers might also be interested in the PhD forum, organised prior to the joint conference in the afternoon of 13 April. To register, please send a request to Anthon Verweij LL.M, a.m.verweij@law.leidenuniv.nl.

This meeting is free of charge.

Model Rules on EU Administrative Procedural law: the Florence Workshop

by Marc Clément

The European University Institute Centre for Judicial Cooperation (EUI), the ReNEUAL group and the European Law Institute organised a joint workshop on 21-22 February 2014 in Florence. Its main purpose was to seek the opinion of legal practitioners, mainly judges, on the draft Model Rules on EU administrative procedural law, the interim outcome of the joint ELI-ReNEUAL project "Towards Restatement and Best Practices Guidelines in EU Administrative Procedural Law".

The meeting was a major step towards developing the Model Rules. The analysed drafts contain detailed rules, from general principles to procedural steps, leading either to a regulatory act of a non-legislative nature or an individual decision. National administrative judges, representatives from the Court of Justice of the European Union, and the European Commission Legal Service debated with the drafters of the documents in a very open way.



From left to right: Jacques Ziller (ReNEUAL), Christiaan Timmermans (ELI) and Loïc Azoulai (EUI)

During his introductory speech, Christiaan Timmermans stated:



“The Model Rules as now tabled are intended to be incorporated into legislation applying to the EU institutions, agencies, organs and other bodies. But not only that: they should also apply to Member States, when they act within the scope of EU law. Thus, they would also have impact on national administrative law. And apart from that, regardless of the final form of the Model Rules, they might and are intended to serve as a source of inspiration for the development of national laws on administrative procedures. So already now national practitioners should have an interest in participating in the debate about their evolution.”

Over the coming weeks, the ELI Members Consultative Committee for the administrative procedural law project will submit its comments on the revised drafts to the ReNEUAL group. A conference for the presentation of the final draft of the Model Rules is planned for 19-20 May 2014 in Brussels and will be hosted by the European Ombudsman.

New Director Designate of the American Law Institute

On 27 January 2014 Professor Richard L. Revesz was named Director Designate of the American Law Institute (ALI). He will succeed Professor Lance Liebman in May, when Professor Liebman officially steps down from his role as Director, a post he has held since 1999. Professor Revesz is dean emeritus at the New York University School of Law, and an expert in environmental law, regulatory law and policy.

President Diana Wallis would like to wish Professor Revesz all the best for his new role, and looks forward to working with him in the coming years. At the same time, the ELI’s heartfelt congratulations and esteemed regards go to Professor Liebman on his great achievements and services rendered during the past fifteen years.

The ELI enjoys a close relationship with its American counterpart. Since its foundation the ELI has looked to the ALI as a model, whose success, longevity and influence it strives to emulate. Representatives of the ALI are often invited to play a role in the ELI’s activities, and attendees of the 2013 Projects Conference and General Assembly in Vienna were honoured by the presence of Professor Liebman who delivered an address at the opening ceremony. Moreover, former ALI Director Professor Geoffrey Hazard and his colleague Professor Antonio Gidi were speakers at the ELI-UNIDROIT workshop on Civil Procedure which took place in Vienna in October 2013. Most recently New York University Professor Samuel Issacharoff attended a meeting of the ELI project team on Collective Redress.



Outgoing ALI Director Professor Lance Liebman speaks at the opening of the ELI Projects Conference and GA 2013 © Natali Glisic

It is hoped that in the future the ELI will send representatives to observe, or indeed actively participate in ALI projects. Such co-operation between the Institutes was hailed by Professor Liebman as providing “almost unlimited opportunities” when he wrote about his time at the ELI’s 2013 meeting in the ALI Reporter, the American institute’s quarterly newsletter. To read the full article, please [click here](#).

This year the ALI will hold its annual meeting from 19 - 21 May 2014. ELI Vice-President Christiane Wendehorst and Executive Committee Member Sjef van Erp will attend the event in Washington DC.

For more information about Director Designate Professor Revesz, please [click here](#).

Two Swedish Law Firms join the ELI

This month Stockholm based law firms Vinge and Mannheimer Swartling have both joined the ELI as Institutional Observers. It is very encouraging to see Scandinavian interest in the ELI confirmed by such a development, and it is hoped that further individuals and organisations in the region will follow suit. ELI Treasurer Johan Gernandt is a Consultant at Vinge, and Tommy Pettersson, an ELI Fellow and Partner at Mannheimer Swartling is a member of the ELI project team on Collective Redress.

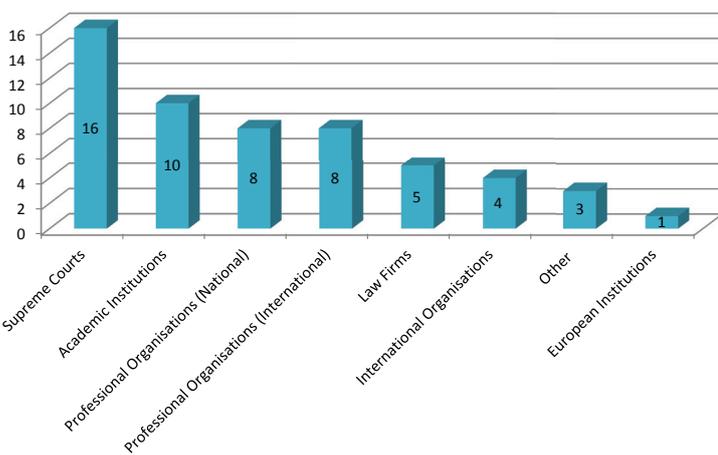


Milestone Number of Institutional Observers

Membership Committee Chair Walter Doralt is delighted to announce that the ELI can now boast over 50 Institutional Observers. Making up this number are numerous Supreme Courts, professional organisations, university faculties and academic organisations, law firms and international bodies.

Walter commented: *“The number of Institutional Observers underlines the tremendous success of the ELI. Even more importantly, the list of our Institutional Observers reflects the diversity the ELI stands for. It is our aim to keep this impressive list growing, selectively, with members who share our passion for law and enhancing the process of law making in Europe.”*

The graph below shows the numbers of Observers in various categories, and the logos of some of the ELI’s Institutional Observers. A complete list of Institutional Observers and more information about their work can be found on [this page](#) of the ELI website.



One-day Conference on International Contracts and Arbitration

The Catholic University of Louvain, in cooperation with the University of Liège, will organise a one-day conference on international contracts and arbitration. The event will take place on 25 April 2014 under the patronage of the European Law Institute.

The bilingual conference (French and English) will feature a morning and an afternoon session where harmonisation of international contract law and arbitration will be discussed by prominent experts in the field, many of them ELI members.

The ELI President Diana Wallis will deliver the welcome address.

You will find the provisional programme on the ELI website. The programme is still subject to change.

The conference fee is € 200 per person. To register, please contact Mrs. Catherine Vanderlinden: catherine.vanderlinden@uclouvain.be.

Morning Session	Chair: Prof. Filip de LY Professor, Erasmus University Rotterdam
9:00 Welcome address	Diana Wallis President, European Law Institute
Introduction	Marcel Fontaine Professor, Catholic University of Louvain Denis Philippe Professor, Catholic University of Louvain
9:20 Arbitration and harmonization of international contract law	Emmanuel Jolivet Secretary General, ICC International Court of Arbitration
9:40 The Common European Sales Law	Hugh Beale Professor, University of Warwick
10:10 Coffee break	
10:40 The Unidroit Principles	Christine Chappuis Professor, University of Geneva Co-drafter of the Unidroit Principles
11:10 Recent developments in harmonisation of contract law in Asia and Africa	Salvatore Mancuso Professor, University of Cape Town
11:40 Panel	Guy Horsmans, Professor, former Dean of the Louvain Law Faculty Patrick Wery Professor, University of Louvain Bernard Rémiche, Professor at the University of Louvain Patrick Marchandise Corporate Counsel, former President of the Institut belge des juristes d'entreprise
12:30 Lunch	



Secretariat of the ELI

Schottenring 14
1010 Vienna
Austria

Phone: +43 (0)1 4277-221 01

Fax: +43 (0)1 4277-9221

secretariat@europeanlawinstitute.eu

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.