



ELI

EUROPEAN
LAW
INSTITUTE

ELI Updates

November-December 2015

GREETINGS FROM LORD JUSTICE GEOFFREY VOS

PRESIDENT OF THE EUROPEAN NETWORK OF COUNCILS FOR THE JUDICIARY



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Dear ELI Members and Friends,

I am delighted to have been asked to write to ELI members in its latest Newsletter.

The European Network of Councils for the Judiciary (ENCJ) is the only institutional judicial network in Europe. It has been an institutional observer of the ELI since 2013 and shares many common goals with it. The ENCJ has 22 member Councils for the Judiciary and 15 observers who are either judicial governance bodies in other member states or Councils in candidate or potential candidate member states. In our first 12 years, we have laid down standards, best practices and guidelines in many areas concerned with the governance of the judiciary, including judicial ethics, appointment, evaluation and promotion of judges, complaints, discipline and financing the judiciary.

The ENCJ is now in the third year of its flagship project on the independence and accountability of the judiciary in which we are aiming to propose solutions for the serious problems that are faced by so many justice systems. In this context, we undertook a survey of the views of the judges in 22 countries on their own independence. The average rating (of nearly 6,000 judges responding) of their own independence on a scale of 1-10 was 8.77, even though the figure was 7.94 when they were asked about their colleagues. Asked if they believed that judges in their countries had taken bribes in the last 2 years, 12% across Europe thought they had, 65% thought they had not, but, perhaps most worryingly, 23% were not sure. You can see the results on the ENCJ [website](#). Now we are working on identifying indicators for the quality of justice from a judicial standpoint, which will involve the tricky exercise of identifying indicators of the quality of decisions and of the process of decision-making that can be applicable to all European jurisdictions. This part of the ENCJ's work has, now for a number of years, fed into the European Commission's justice scoreboard.

In the coming year, the ENCJ has proposed the establishment of a joint project with the ELI in relation to the pitfalls and benefits of the increasingly prevalent methods of ADR and online dispute resolution used across Europe that exclude a judicial hearing. Discussions are currently ongoing as to this joint project, but if approved by both sides, I am sure that combining the expertise of our two important organisations will more than double the fire-power!

Lord Justice Geoffrey Vos

President of the European Network of Councils for the Judiciary

Successful ELI-UNIDROIT Conference on “Building European Rules of Civil Procedure”

Europe’s leading civil procedure experts gathered on 26-27 November in Trier, Germany, to discuss the building of European rules of civil procedure. The Conference was organised by the ELI and UNIDROIT, and was hosted by the Academy of European Law (ERA).

ERA’s Director, Wolfgang Heusel, opened the Conference on 26 November, emphasising the importance of more unified procedural rules across the European legal landscape. ELI President, Diana Wallis, welcomed the participants in the name of the ELI and UNIDROIT and expressed her gratitude for the interest of legal experts from all over Europe. Ms Wallis particularly thanked the European Parliament and the European Commission, both of which sent representatives to this event, for their interest in the project.



Participants of the Conference

In total, five panel sessions took place during the Conference. Each session was chaired by one member of the ELI-UNIDROIT Steering Committee, accompanied by the Reporters of the respective Working Group and an independent leading discussant.

During the first day, three Working Groups presented their tentative draft rules: the Working Groups on Access to information and evidence, Provisional and protective measures, and Res judicata and lis pendens. The Working Groups on Obligations of the parties, lawyers and judges, and Service and due notice proceedings presented their draft rules during the second day. Professor Rolf Stürner, Professor at the University of Freiburg, delivered final remarks at the close of the Conference.

Access to information and evidence

The first session was chaired by Dr John Sorabji, Principal Legal Adviser to the Lord Chief Justice and Master of the Rolls, who introduced the Working Group’s Reporters: Neil Andrews, Professor at the University of Cambridge; and Fernando Gascón Inchausti, Professor at the Complutense University in Madrid.

After the presentation of the Working Group’s progress, Wolfgang Hau, Professor at the University of Passau, took the floor as leading discussant. Prof. Hau highlighted the amount of available legal sources that have to be considered in this field of law. The Reporters agreed: many different perspectives and wide range of potential legal options are “a blessing and a curse at the same time”. The Working Group’s goal, however, is to draft rules which will cover all major issues in this area in civil and commercial matters, excluding family law and labour law procedures.

Provisional and protective measures

The session on provisional and protective measures was chaired by Anna Veneziano, Deputy Secretary General of UNIDROIT. Neil Andrews and Gilles Cuniberti, Professor at the University of Luxembourg, presented the progress report of their Working Group.



Participants of the panel on ‘Provisional and protective measures’

Following the Reporter’s presentation, Raffaele Sabato, Member of the Italian School for the Judiciary and former Chairman of the Consultative Council of European Judges (CCJE), gave his remarks as a representative of the judiciary. Among the recommendations, Judge Sabato advised the Working Group to include more diverse measures and to focus rather on provisional than protective measures. Subsequently, the participants discussed the time-sensitive nature of such measures and the issues related to the burden of (full) disclosure.

Res judicata and lis pendens

Remo Caponi, Professor at the University of Florence, chaired the last session of the first day. The progress report of the Working Group on Res judicata and lis pendens was presented by Frédérique Ferrand, Professor at the Jean Moulin University Lyon III.

Norel Rosner, Legislative Officer at the Unit Civil Justice Policy of the European Commission, responded to

the presentation as leading discussant and as a representative of a law enforcing and law proposing body. Mr Rosner emphasised the fact that cross-border elements deserve special attention. It was therefore of real importance to define the most pertinent terms in advance. After the presentations, the participants considered whether the draft rules should include special rules on arbitral awards and collective redress cases.

Obligations of the parties, lawyers and judges

The second day was opened by the session on Obligations of the parties, lawyers and judges, which was chaired by Prof. Stürner. Alan Uzelac, Professor at the University of Zagreb, took the opportunity to discuss his Working Group's progress. It had held its last meeting the day before the Conference in Maastricht (see more on [page 5](#)).

Robert Bray, Head of Unit at the Committee on Legal Affairs of the European Parliament, presented his views on the project from the perspective of a legislative body. Mr Bray pointed out that the draft rules are an excellent starting point and that many of the shared views might form a good basis for developing legislative instruments. Subsequently, the participants of the Conference discussed the role of a Judge and how liberal a civil procedure system ought to be.

Service and due notice of proceedings

Diana Wallis, President of the ELI, chaired the final session, which focused on the work of one of the most developed Working Groups: Service and due notice of proceedings. The report was presented by Eva Storskrubb, Marie Curie Fellow at Uppsala University.



Norel Rosner once again had the opportunity to act as a leading discussant. This time, Mr Rosner drew the attention of the participants to the three underlying policies of this subject: (i) the balance between the rights of defendants and claimants; (ii) the importance

of procedural economy; and (iii) mutual trust. Conference participants also considered the use of digital technology.

Conclusion

In total, over 70 legal experts from across Europe attended the ELI-UNIDROIT Conference at ERA. Comments were wide-ranging, insightful and properly challenging.



The points made by the attendees formed an important contribution to the project and its further development. They will be carefully considered by the respective Working Groups when they prepare revised and more detailed sets of draft rules in the course of 2016.

The participants unanimously agreed that the ELI-UNIDROIT project's results will certainly represent a valuable set of materials, which will provide an excellent basis for future discussion, analysis and development. As Prof. Stürner pointed out in his concluding remarks, "recent years have seen the emergence of European civil procedure rules and this project could indeed serve as a useful tool to avoid a haphazard growth of those rules".

Steering Committee Meeting

Just before the start of the Conference, the ELI-UNIDROIT Steering Committee convened to discuss the further development of the project and to plan the next year's activities. The Committee also endorsed the proposal to establish two further working groups on Costs and Judgments, which will be set up at the beginning of next year. The Steering Committee will appoint two Reporters for each Working Group who subsequently will suggest 4-5 additional Working Group members based on the following criteria:

- At least one member will be a native French speaker;
- At least one member will be a member of another ELI-UNIDROIT Working Group; and
- The Working Group will be as diverse as possible in terms of jurisdiction (civil law and common law) and profession (academics, judges, lawyers, notaries, etc.).

ELI Conference on Digital Single Market - Vienna 21-22 January 2016

On 9 December, the European Commission introduced three legislative proposals under its Digital Single Market strategy. These are a [Proposal](#) for a Directive on certain aspects concerning contracts for the online and other distance sale of goods, a [Proposal](#) for a Directive on certain aspects concerning contracts for the supply of digital content, and a [Proposal](#) for a Regulation on ensuring the cross-border portability of online content services in the internal market.



These instruments represent the first material steps towards a modern contract law regime for digital content and online sales across the EU. This initiative is closely connected with the earlier attempts to introduce a Common European Sales Law and the ELI has been actively following the efforts every step of the way, ever since 2011. The ELI Working Group prepared a statement in May 2015, outlining how a common sales law could be integrated in the Digital Single Market and has provided critical and constructive review on certain aspects of the proposed instruments. This active participation has already been noted. Just recently, at the Annual Conference in September, [Věra Jourová](#), the EU Commissioner for Justice, Consumers and Gender Equality, stated that the ELI's input on how to design legally sound and robust rules in this field will be particularly valuable.

In order to discuss and consider the substantial changes that these new instruments are likely to have, the ELI is convening a Conference in Vienna on 21-22 January 2016.

The ELI Executive Committee met in December

On 11 December, the ELI Executive Committee met in Vienna for its fourth meeting in 2015. The ELI administrative body met for the first time in the new premises of the ELI Secretariat, at Schottenring 16, not far away from what had been the usual meeting point in the last few years.

The tight agenda of the meeting was a very positive sign of all that is going on in the European Law Institute. Just when two new ELI projects are starting to run on family law and migration law (see [page 6](#) for more information),

The Conference is titled: **'New Rules for Contracts in the Digital Single Market – What's in it for Consumers and Businesses in Europe?'** and is organised by Christiane Wendehorst and Fritz Graf von Westphalen. Please click below to see the agenda of the event.



New Rules for Contracts in the Digital Single Market – What's in it for Consumers and Businesses in Europe?

Conference Vienna, 21-22 January 2016

On 9 December 2015, the European Commission published three legislative proposals under its Digital Single Market strategy: a Directive on certain aspects concerning contracts for the online and other distance sale of goods (COM(2015) 648), a Directive on certain aspects concerning contracts for the supply of digital content (COM(2015) 649) and a Regulation on ensuring the cross-border portability of online content services in the internal market (COM(2015) 650). At the same time, the Commission also published a communication on the proposed rules (COM(2015) 651).

Thursday, 21 January 2016

Time: 08:30-10:00

08:30-09:00: Welcome and registration

09:00-09:30: Breakfast

09:30-10:00: Opening ceremony

10:00-10:30: Coffee break

10:30-11:00: Presentation of the proposals

11:00-11:30: Lunch

11:30-12:00: Presentation of the proposals

12:00-12:30: Lunch

12:30-13:00: Presentation of the proposals

13:00-13:30: Lunch

13:30-14:00: Presentation of the proposals

14:00-14:30: Lunch

14:30-15:00: Presentation of the proposals

15:00-15:30: Lunch

15:30-16:00: Presentation of the proposals

16:00-16:30: Lunch

16:30-17:00: Presentation of the proposals

17:00-17:30: Dinner

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To continue to build on the ELI's already strong reputation in this field that constitutes an ever larger part of the lives of European citizens, it is essential to draw on the experience and expertise of as many of our members as possible.

The Conference will be convened at [Palais Trautson](#), which houses the offices of the Austrian Ministry of Justice. On that morning the Digital Law SIG is also planning to meet (see more information on [page 7](#)). On the evening of Thursday 21 January, a Conference dinner will take place at [Café Landtmann](#). The same evening, the Musikverein hosts the [Vienna Philharmonic ball](#), one of the highlights of the Vienna ball season, on the same evening. It is a lovely event that luckily fits perfectly in the Conference schedule. It's the perfect opportunity to unwind after the first Conference day to the tones of the Vienna Philharmonic Orchestra.

If you are interested in the Conference and would like to participate, please [contact the ELI Secretariat](#) to register, by no later than **18 January**. The ELI has booked a contingent of rooms in [Hotel Josefshof](#), very close to the Conference venue. For information on rates and assistance with bookings, or any additional questions regarding the Conference, please [contact the Secretariat](#).

possibilities for cooperation with other organisations to embark on projects in diverse areas of law are very positively received by the Executive Committee. All these proposals were discussed in detail in December and members of the Executive Committee are now working with the support of the ELI Secretariat, to provide the Council with concrete proposals for its discussions in February. During the meeting, many other aspects of the ELI strategy and functioning were addressed, such as finances, hubs, SIGs and external cooperation.

ELI-UNIDROIT Working Group on Obligations of the Parties, Lawyers and Judges met in Maastricht



Alan Uzelac during the Trier Conference

The Working Group on Obligations of the Parties, Lawyers and Judges, chaired by Professors C. H. van Rhee and Alan Uzelac, met in Maastricht and in Leuven on 25 and 26 November after two previous successful meetings in Maastricht and Dubrovnik.

The aim of the meeting was to discuss a set of draft rules, accompanied by the commentary produced by the 5 subgroups of the Working Group and consolidated in a single document by Professors Uzelac and Van Rhee. The document is structured in 5 parts: (1) General Part: Duty of Loyal Cooperation, (2) Planning and Management of the Proceedings, (3) Determination of Facts, (4) Determination of Law, and (5) Duty to Promote Consensual Dispute Resolution. Each part consists of a section on sanctions.

Apart from general issues, such as the extent of judicial case management powers that would be acceptable in the various legal systems of the EU, and the specific duties of the parties to cooperate with each other and the court, the Working Group decided to discuss the draft articles individually. During this discussion, it was noted that the English text of the document should enable a quasi-literal translation into French.

Even though the Working Group devoted two full days to the discussion of the draft, it turned out that more time was needed to finalise the English text and commentary, whereas it was also decided that the French translation, that will be done by Professor E. Jeuland, needs to be discussed in a plenary session. To this end, a meeting will be convened in Pavia in February 2016. There, the Working Group will decide whether an additional plenary meeting will be needed. The meeting was made possible thanks to funding from the European Law Institute and Maastricht University.

Recent developments in the ELI Instrument on Rescue of Business in Insolvency Law



Prof. Wessels (right) at the INSOL Europe Academic Forum

The ELI Instrument on Rescue of Business in Insolvency Law has been making great progress recently. The Reporters are getting ready to start drafting their report, they have been active in meeting

with specialists and attending conferences to discuss their findings and the views of different stakeholders on the future of insolvency law. On 30 September and 1 October, Reporters Prof. Bob Wessels and Prof. Stephan Madaus attended the INSOL Europe Academic Forum Conference in Berlin.

The forum was primarily focused on Banking and Financial Insolvencies and offered a number of working sessions that relate to the Project. Professors Wessels and Madaus took active part in a number of these sessions.

Professor Wessels and Associate Professor van Zwieten also held a telephone conference with specialists appointed by the Council of Bars and Law Societies of Europe in Brussels. The meeting provided an opportunity to discuss important considerations regarding the role of insolvency practitioners and the way their activities are regulated and supervised. The ELI would like to thank the participants for their time and efforts.

Prof. Bob Wessels was recently appointed as a member of a group of experts, tasked with assisting the European Commission in preparing a potential legislative proposal containing minimum standards for a harmonised restructuring and insolvency law in the EU. This appointment comes in a moment where the ELI project is starting to produce the drafts that will be presented to the public in 2016.

Two new ELI projects will start running in January 2016

In the last quarter of 2015, ELI members and bodies were actively contributing to the betterment of the European legal landscape, not only with the on-going ELI projects

but also with ideas for new projects. Two of them were presented to the ELI Council in September and are ready to start running in the next few weeks.

An ELI project on Family and Succession Law

The proposal for an ELI project entitled “Empowering European Families - Towards More Party Autonomy in European Family and Succession Law” was approved on 3 September 2015 by the ELI Council ([decision 2015/8](#)), and the project will start running on 1 January 2016. Katharina Boele-Woelki, Chair of the Commission on European Family Law; Christiane Wendehorst, Professor at the University of Vienna and ELI Vice-President, and Wendy Schrama, Professor at the University of Utrecht and member of the Commission on European Family Law, are leading the project. The research will be organised around three substantial Workstreams, each of them focusing on different aspects of international family law and private international law. The project is conducted with the help of an action grant awarded under the Justice Programme of the European Union to the Universities of Vienna and Utrecht.



Christiane Wendehorst presenting the project at the ELI Annual Conference

Around sixteen million international couples live currently in the EU, that is, couples where at least one of the partners lives in a country other than his or her country of origin. Since an existing family relationship may have completely different legal effects upon moving into another jurisdiction, this may lead to unexpected effects and to hardship, e.g. in a loss of rights on the part of the weaker party in a relationship or in a distribution of the estate which is incompatible with the expectations of the deceased and the surviving family. The overall aim of this new ELI project is to reduce obstacles faced by international families and to facilitate free movement of citizens by providing better certainty and predictability of results and reducing the costs of litigation in matters of family and succession law in Europe.

Most of the problems described above could be avoided



by way of early choice of court and applicable law under existing EU instruments and by agreements on substantive law issues, as far as these are enforceable in the forum state. However, many couples are not aware of these

options, and many individuals do not dare raise the issue in a relationship or are not in a position to pay for expensive expert advice. Therefore, the Project Team will develop European model dispositions concerning (i) choice of court, (ii) choice of applicable law, and (iii) submission to family mediation. Complementary, the project seeks to improve the implementation of the relevant EU instruments by developing tools that would raise EU citizens' awareness of options on a large scale, reduce psychological barriers against contracting in due time before a conflict arises or death occurs, and offer to the parties simple solutions which are available at low cost.

The Project Team already has a schedule of meetings within Workstream 1, which is focused on the European model forms concerning choice of court and of law for family matters and successions. On 10-11 January 2016 the project team will meet in Vienna to discuss and finalise a draft questionnaire that will then be sent to national correspondents in all 28 EU Member States. The aim of the questionnaire is to collect data for the comparative analysis of existing options of choice of court and/or of applicable law at the level of EU legal instruments and remaining national conflict-of-law rules. After receiving the completed questionnaires, the project team will meet in Utrecht on 10-11 April 2016 and discuss the national reports as well as draft information sheets. Further meetings of the Working Group are planned for March and June 2016, the latter combined with a public workshop in Vienna. Please consult our [website](#) regularly to follow recent developments in the project.

An ELI project on migration and the rule of law

The idea of developing an ELI project related to migration was already raised in one of the panel sessions of the [ELI 2014 Annual Conference](#) in Zagreb, and then followed up at the ELI February Council meeting, where many members of this ELI body expressed their support to a contribution of the ELI in the field. In November 2015, the ELI Council approved ([CD 2015/11](#)) a project proposal for an “ELI Statement on Detention of Asylum Seekers and Irregular Migrants and the Rule of Law”.

As the project title indicates, the issue of implementation of the rule of law standards on detention of asylum seekers and irregular migrants lies at the core of this project. Its aim is to develop a user-friendly and well-referenced check list of all due process standards and material law including conditions for detention that could be used by the competent judges dealing with detention cases concerning asylum seekers and illegally staying third country nationals. Enhancement of the implementation of existing standards could not be more important, in times when the worldwide displacement reaches the highest numbers in the post-World War II era.

During the first stage of the project, the ELI Working Group will identify and compile all due process standards and material law including conditions for detention from the relevant sources of EU law and case-law of the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU). This will take into account special positions and safeguards for children and other vulnerable persons and eventual differences in due process standards between EU law (including case-law of the CJEU) and case-law of the ECtHR.

Based on the information compiled during the first stage, the working group will then identify the challenges and problems that judges may face when applying

the selected due process standards and material law including conditions for detention in conjunction with the relevant case-law of the ECtHR and CJEU. As a result of this analysis and at the end of the second stage, a user-friendly check-list will be developed with indications and recommendations on how to apply those standards in an integrated manner.

The results of the project will be presented and discussed during the ELI 2016 Annual Conference that will take place in Ferrara (Italy) (see [page 9](#) for more information about the Annual Conference).



Rule of Law and Migration Panel at the ELI 2015 Annual Conference

The output of this project will be disseminated among judges dealing with detention cases and competent administrative authorities of all EU Member States.

The Project Team is chaired by Judge Boštjan Zalar, who is the Senior High Court Judge of the Administrative Court of the Republic of Slovenia, a member of the ELI Council and the Vice-President of the European Chapter of the International Association of Refugee Law Judges. The Project Team is comprised of experts representing various legal traditions and backgrounds: judges, academics and representatives of leading European and international organisations in the field.

At an event organised by the European Asylum Support Office (EASO) in Luxembourg, Judge Zalar reiterated the significance of the effective implementation of the norms on detention, saying that *“It is vital that an interplay between the three protective systems of human rights [EU law, ECHR and national constitutional law] is taken into consideration in each case (...).”*

ELI Special Interest Groups (SIGs): meetings coming up!

In their first months of functioning, the recently established ELI Special Interest Groups (SIGs) have already been very active, organising their first meetings and conference calls, and planning their work for the upcoming months.

SIGs were asked to define their field of action and many

of them have already provided the ELI Secretariat with a clear definition of their focus and indications of their future plans.

The **Digital Law SIG**, which as reported in the last issue of this Newsletter met in Münster on 2 October, will celebrate its next meeting on 21 January 2016 in Vienna.

The event will take place in the premises of the Austrian Ministry of Justice, ahead of the ELI Conference on the Digital Single Market (see [page 4](#) for more details on the Conference). In this meeting, members of the SIG will discuss and present reports on free flow of data, robotics, the internet of things and the user self-protection on the internet. The meeting will also be a great opportunity to plan the activities of the SIG for 2016.

The **Dispute Resolution SIG** plans to embark on an undertaking in the area of the investor-state dispute settlement. For that purpose, the SIG will meet for the first time in Wiesbaden (Germany) on 19-20 February, where the Members will present preliminary reports on selected topics. The meeting will also be an opportunity to appoint the coordinators of the Group and plan the activities for the upcoming months.

The ELI Spanish Hub to be launched in 2016!

A new Hub is about to join the ELI hubs-community in Europe. Spanish members of the ELI have been actively promoting the establishment of a national hub in their country for the last few months. These efforts have developed into a concrete proposal that will see the light in spring 2016.

The Spanish ELI Hub will be launched on 9 May 2016, coinciding with Europe Day. The event will take place at the Spanish Centre of Political and Constitutional Studies, which belongs to the Spanish Ministry of Presidency and which kindly offered its support to this event.

The event, which will focus on the interaction between European law and Spanish law, will count on the presence and participation of the ELI President, Diana Wallis, and its Secretary General, Rosana Garcíandía. Diana Wallis will deliver a welcome address and introduce the ELI. Prominent speakers of the Spanish legal landscape will participate in the event: Encarnación Roca Trías, Magistrate of the Spanish Constitutional Court, will speak about "The influence of the European Jurisprudence on the Spanish Constitutional Court". Théophile M. Margellos, President of the OHIM Boards of Appeal, will address the audience about the European dimension of dispute resolution, focusing on IP Litigation. Professor Ángel Carrasco Perera, Professor of Private Law at the University of Castilla-La Mancha, will focus on the role

Other SIGs are planning meetings coinciding with the upcoming ELI Council meeting, which will take place on 12 February in Vienna. This is the case of the **SIG on Contract, Tort and Property law** and the **SIG on Business and Financial Law**.

SIGs are subject-specific ELI Hubs established to enable ELI Members to cooperate in a more structured way and tap their legal expert potential. The main aims of SIGs are to scrutinise any relevant developments in their respective areas as well as to elaborate proposals for ELI projects, once the advancements in their fields so require. If you are interested in any of the areas where ELI SIGs have been established and you wish to contribute with your expertise to the work of that SIG, do not hesitate to [contact the ELI Secretariat](#) and join the SIG.

of European soft law in online sales. The European dimension of the Spanish Jurisdiction will be analysed by Juan Luis Requejo Pagés, Legal Secretary at the CJEU and Professor of



Constitutional Law, who will talk about the CJEU and the ECHR as national Courts. If you are interested in participating in the launch of the ELI Spanish Hub, please [contact the ELI Secretariat](#). The ELI is pleased to see its national hub structure grow so successfully.

German Hub event in March

As was already announced in previous issues of this Newsletter, members are also invited to join the German ELI Hub event that will take place on **4 March 2016, in Frankfurt am Main**. The event will consist on a colloquium together with the Ernst von Caemmer Foundation and the Goethe University Frankfurt am Main. It will focus on the harmonisation of sales law from the European, international and comparative perspectives. The agenda of the event is available [here](#). More information concerning developments of the ELI Hubs and SIGs is regularly available on the [ELI website](#).

Upcoming Council meeting

The next ELI Council meeting will be held in Vienna, at the premises of the Faculty of Law of the University of Vienna (Juridicum), on 12 February 2016. This will be the second time the newly elected Council meets after the Council elections that took place last September, where 30 seats of this ELI body were voted upon by the ELI members present during the 2015 General Assembly. More information about the Council elections can be found [here](#).

The Council will convene to discuss the latest developments of ELI projects which, as reported in this issue of the Newsletter, are very positive in many different

fields of law such as civil procedure, digital law, family law, migration law and insolvency law. The meeting will also devote attention to new ideas for potential future ELI projects. The Council will assess new project proposals and will discuss the potential contribution of the ELI in some concrete fields of law.

The meeting will also be an opportunity to discuss the progress of other ELI structures, such as Hubs and SIGs (more information on [page 7](#) and [8](#)). The preparations for the 2016 Annual Conference will also be on the agenda of this Council meeting.

2016 Annual Conference and General Assembly - save the date!



The ELI 2016 Annual Conference and General Assembly will take place in Ferrara, from 7 to 9 September 2016. The Conference will be kindly hosted by the Faculty of Law of the University of Ferrara. The event will start in the evening of Wednesday 7 September, with an opening ceremony.

The General Assembly will convene on the next day and will feature reports from the President, Treasurer and other featured members of the Institute. Following this, the project sessions will provide ELI members and external participants the opportunity to discuss the most topical legal issues in the European landscape for two full days. Panel sessions will be devoted, among other topics, to criminal law, insolvency law, civil procedure,

the Digital Single Market, family law and migration.

During the Conference, ELI project teams, especially the ones focusing on Rescue of Business in Insolvency Law, civil procedure and criminal law, are expected to present the outcome of their work to participants, hoping for fruitful discussions on concrete aspects of these areas of law.

More information on the programme and also on accommodation and other arrangements will be provided in the February issue of the Newsletter. Please save the date and do not miss this opportunity to meet the European legal community in Ferrara next September!



New Institutional Observers

The Pan European Organisation of Personal Injury Lawyers (PEOPIL)



PEOPIL was founded in 1996 by a group of European personal injury lawyers - plaintiffs as well as defendants - practicing in various jurisdictions in Europe. By 1998, they were formally established as a not-for-profit

organisation to improve and promote judicial co-operation and mutual knowledge of legal and judicial systems of European jurisdictions in the field of personal injury law.

Currently PEOPIL has 550 members from 27 jurisdictions within the European Union, 11 Non-European Union jurisdictions within Europe and 6 jurisdictions outside Europe. Membership is open to legal professionals

(lawyers, judges), academics and law students.

The objectives of the organisation are to develop co-operation and networking of personal injury lawyers within Europe; to promote access to the legal system for consumers suffering personal injury; to promote higher standards of care and safety for consumers; to promote proper and fair compensation for all personal injury cases; to support and encourage the exchange of information and knowledge.

The development and expansion of PEOPIL is based upon recognition that the issues involved in personal injury litigation frequently extend beyond the national boundaries and require an international perspective and knowledge.

The Polish Foundation of Competition Law and Sector Regulation *Ius Publicum*



The Polish Foundation of Competition Law and Sector Regulation *Ius Publicum* is an initiative of practitioners and theorists of economic law from the University of Silesia and the University of Warsaw.

The primary goal of the Foundation is to conduct social, educational and scientific research on issues of public law, in particular competition law and sector regulation, as well as supporting initiatives and projects aimed at strengthening the legal awareness in this regard, and to develop interest in these areas of law.

The realisation of these aims of the Foundation is carried out under the patronage of the local government organisations and state organisations, with the support of prominent scientific representatives. In order to achieve these goals, the Foundation organises symposiums, lectures, conventions, meetings, conferences, and conducts research. The Foundation also publishes its activities via the Foundation Library.

The motto of the Foundation is "ad tuerie regulation et concurrentia" – at the defense of regulation and competition. It is the expression of the balanced approach of the Foundation to combine law and economics, regulation and deregulation, the state and the market.

Have you paid your 2015 fees?

As the year draws to a close, please make sure that your membership fees for 2015 have been paid. If you are unsure as to whether or not your fees are still outstanding, please [contact the Secretariat](#). The easiest way to pay your fees is via the [PayPal function](#) on the ELI website. Many thanks!

A look back at 2015

As the ELI comes to the end of its fourth full year of existence, the Institute can look back on 12 months full of positive developments and progress.

Strengthening the network

The ELI membership has grown significantly in 2015. 170 new Fellows and Individual Observers bring the total to 1,134 individual members, while the number of Institutional Observers has grown to 89. Amongst the new Institutional Observers are several law faculties, national courts and international bodies. Encouraging and maintaining diversity amongst members has been a key aim of the Membership Committee this year, with a special focus on Tax Law, Criminal Law and Labour Law.

Apart from increasing the number of Institutional Observers, the ELI has strengthened its cooperation with existing and new Institutional Observers. On 19 January, ELI President Diana Wallis, Vice-President Christiane Wendehorst, and member of the Executive Committee Sjef van Erp participated at a meeting of the European Parliament's Committee on Legal Affairs (JURI) in Strasbourg. Members of the European Parliament showed great interest in the ELI and the event contributed greatly to an even more fluent communication with this European institution that has been an Institutional Observer of the ELI since 2014. Other prominent examples of these efforts to strengthen cooperation with other organisations are the cooperation of the ELI with the Academy of European Law (ERA), the Council of Bars and Law Societies of Europe (CCBE) and the European Network of Councils for the Judiciary (ENCJ). For more information, visit the 2015 issues of the ELI Newsletter.



President and Vice-President of the ELI signing the agreement with the University of Vienna

As a major milestone, in February 2015 the University of Vienna and the European Law Institute (ELI) extended their cooperation agreement until 2019, which guarantees that the ELI Secretariat will be kindly

hosted by the University of Vienna for another four-year term. Both partners look forward to further successful collaboration.

ELI bodies: the driving force of the organisation

2015 was also a fruitful year for the ELI bodies. In February, the Council, the Senate, the Executive Committee and the Membership and Fundraising Committees met in Vienna and addressed several different issues concerning the present and future of the Institute, its strategy on projects and its international relations. The Executive Committee and the Senate also held joint meetings in April and September, just before the General Assembly voted upon 30 seats of the Council. The newly elected Council held its first meeting in September 2015, where many relevant decisions were made concerning ELI projects and the Institute's functioning. 2015 also saw the appointment of the new Secretary General of the ELI, Rosana Garcíandía, who together with a young and enthusiastic Secretariat team has served the ELI bodies since July.

SIGs and HUBs

Special Interest Groups (SIGs) were also created this year, some of them already very active in their respective fields as reported on [page 7](#) of this newsletter.

The number of ELI Hubs is steadily growing. In February 2015, the Polish Hub was formally launched, joining the seven existing national Hubs (Austria, Belgium,



Croatia, France, Germany, Slovenia and the UK). Many events took place in 2015, organised by the Austrian, Polish, and German Hubs among others. As reported on [page 8](#) of this newsletter, a new national hub will be joining the existing ones in 2016: the Spanish Hub.

ELI projects

ELI Project Teams worked intensively throughout the year to yield excellent results.

The 2nd Supplement to the ELI Statement on the Proposal for a Regulation on a Common European Sales Law (CESL), [Unlocking the Digital Single Market – An Instrument for 21st Century Europe](#), was approved by the ELI Council on 31 July 2015 ([CD 2015/6](#)). This publication forms the



first part of what will be a longer-term project within which the ELI will develop a detailed draft legislative proposal following the European Commission's Communication on "A Digital Single Market Strategy for Europe". A future publication with detailed legislative recommendations will

follow this 2nd Supplement.

The ELI project on [Rescue of Business in Insolvency Law](#), a long-term endeavour which will result in the publication of an ELI Instrument, has also made great progress this year. Led by Project Reporter Bob Wessels, the team presented its preliminary results at its first Conference in Vienna on 19 and 20 March, hosted by the Faculty of Law of the University of Vienna. The Reporters of this project further met in Dordrecht on 21 and 22 July and have organised meetings with relevant actors in the field.



Participants of the panel 'From Transnational Principles to European Rules of Civil Procedure (ELI -UNIDROIT joint project) during the Annual Conference 2015

Experts working on the ELI-UNIDROIT joint project [From Transnational Principles to European Rules of Civil Procedure](#) were also kept busy in 2015 with several meetings of the Working Groups and Steering Committee. On 16 April, the ELI hosted an ELI-UNIDROIT Joint Meeting in Brussels, in which the Steering Committee and the Reporters discussed the progress of the project. Following the Joint Meeting, an ELI-UNIDROIT delegation presented the project to the Committee on Legal Affairs (JURI) at the European Parliament. At the ELI Annual Conference, a panel discussion was dedicated to this project. Following closer cooperation with the Academy of European Law (ERA), which became an Institutional Observer of the ELI this year, Europe's leading civil procedure experts gathered in Trier on 26-27 November for a discussion on the building of European rules of civil

procedure (see more on [page 2](#)). The Steering Committee of the ELI-UNIDROIT project took this opportunity to hold a meeting on 26 November.

The ELI project team on [Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law](#) has also been working hard this year. A Working Group meeting took place in March in Luxemburg, and Vienna was the location for a second meeting in 2015. This meeting took place on 1 and 2 September. This two-day meeting provided the opportunity for fruitful discussions on the developments of the project and served also as preparation for the meeting with the Members Consultative Committee that took place during the Annual Conference.

The third quarter of the year also saw two new ELI projects born, as reported on [page 6](#) of this newsletter: the project "Empowering European Families - Towards More Party Autonomy in European Family and Succession Law", and the project on "Detention of Asylum Seekers and Irregular Migrants and the Rule of Law".

Annual Conference

One of the most important events of the year was the [ELI Annual Conference](#), which took place in Vienna from 2 to 4 September. The Conference gathered more than 200 experts from different legal and geographical backgrounds and provided a forum for lively discussions on law, policy and the role the ELI has to play in improving European law.

Harriet Lansing, the Immediate Past President of the U.S. Uniform Law Commission and Senior Judge on the Minnesota Court of Appeals, gave a keynote lecture during the opening ceremony. Věra Jourová, the EU Commissioner for Justice, Consumers and Gender Equality gave an inspiring [keynote lecture](#), on 4 September, noting that the ELI has provided invaluable advice to the Commission in the past and expressing an interest in several ELI projects that are either on-going or in their first stages.



Diana Wallis and Věra Jourová

Panel sessions were held during the Conference, focusing on diverse fields of law, such as EU Administrative Law, the Digital Single Market, European Rules of Civil Procedure

and the Fiduciary Access to Digital Assets, Empowering European Families: Towards more Party Autonomy in European Family and Succession Law, Rescue of Business in Insolvency Law, and the Rule of Law and Migration.

This successful event encouraged ELI bodies and the ELI Secretariat to continue working hard in the organisation of the ELI 2016 Annual Conference, which will take place

in Ferrara, Italy.

For further details of the events and milestones of the past twelve months, you can access the previous ELI newsletters on this [page of the website](#).

The ELI Secretariat has moved to a new location

As mentioned in the [last issue](#) of the ELI Newsletter, the ELI Secretariat, hosted by the University of Vienna, has now moved to its new premises, located very close to the previous address. The new headquarters are placed in the historic Börse building, where the Vienna Stock Exchange was located until 1998.

The address of the office is now **Schottenring 16**. The building has also an alternative entrance at Wipplingerstraße 34, from which the ELI Secretariat is

equally accessible. You will find us on the first floor, as indicated in the plan of the building that you can see [here](#) (door number 175).

We cordially invite you to visit our headquarters whenever you are in Vienna.



The meeting room



Börse building

Coming up in 2016...



- ELI Conference '[New Rules for Contracts in the Digital Single Market – What's in it for Consumers and Businesses in Europe?](#)', Vienna, 21-22 January
- Digital Law SIG meeting, Vienna, 21 January
- ELI [Council Meeting](#), Vienna, 12 February
- Business and Finance Law SIG meeting, Vienna, 12 February
- Contract, tort and property Law SIG meeting, Vienna, 12 February
- Dispute Resolution SIG meeting, Wiesbaden, 19-20 February
- German Hub [event](#), Frankfurt am Main, 4 March
- Launch of the ELI Spanish Hub, Madrid, 9 May
- ELI 2016 Annual Conference and General Assembly, Ferrara, 7 to 9 September

Dear ELI Members and Friends,

During the Holiday Season more than ever, our thoughts turn gratefully to those who have made the ELI's progress possible. In this spirit, on behalf of myself and the whole Executive Committee, I would like to convey my great thanks for your ongoing support of the ELI and say simply yet sincerely,

*Thank You
&
Every Good Wish for 2016!*



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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