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## Message from Didier Reynders

EU Commissioner for Justice

Dear ELI Members and Friends,

It is a great pleasure for me, as the Commissioner for Justice, to contribute to the Newsletter of the European Law Institute (ELI). ELI is an important stakeholder on which I know the European Commission can count to continue addressing the challenges in the field of justice.

As regards the rule of law, the Commission will seek to defend it with a renewed determination. Respect for the rule of law is a prerequisite for protecting all other values, and it is crucial for the effective application of EU law and for mutual trust between Member States and their judicial authorities. In recent years, we have witnessed concerns regarding respect for the rule of law emerging in some Member States. This shows that the rule of law cannot be taken for granted. The Commission has therefore decided to establish a comprehensive European Rule of Law Mechanism, in addition to existing instruments in the EU's rule of law toolbox.

The European rule of law mechanism aims at deepening the dialogue and joint awareness on rule of law issues. In this regard, the Commission will adopt an annual Rule of Law Report summarising the situation in the Member States. It is one of the major initiatives of the Commission's Work Programme for 2020, and the monitoring approach will be the same in every Member State. The upcoming 2020 Rule of Law Report, to be adopted in September, will monitor significant developments related to the rule of law in Member States and at the

EU level, both positive and negative, providing a synthesis of them.

This year, the monitoring in the 2020 Rule of Law Report will cover four pillars: the justice system, the anti-corruption framework, media pluralism, and other institutional issues related to checks and balances. As explained in the July 2019 Communication on 'Strengthening the rule of law within the Union - A blueprint for action', the Commission relies on a wide range of relevant sources.

The Commission received more than 200 contributions from stakeholders, showing a willingness to deepen this work. Furthermore, the Commission held over 300 virtual meetings with all Member States, stakeholders and civil society, which reinforces our commitment to a continuous dialogue with, and between, stakeholders and policy-makers at EU level.

The responsibility to ensure respect for the rule of law as a common value lies primarily with each Member State. However, civil society, media, academia and European networks similarly play a crucial role in the promotion of the rule of law, in the exchange of ideas and good practices, and in providing a public debate on the topic.

A key challenge in this regard is to foster a rule of law culture among the general public and to reinforce its importance as a common European value. It is our hope that the Rule of Law Report, with its underlying principle of transparency, will contribute to this objective both at



the national and the EU level, including all interested stakeholders and citizens. Organisations such as ELI can also provide a valuable contribution to this work, including through the organisation of conferences and debates.

The COVID-19 pandemic has proven that in times of a crisis the rule of law is more important than ever. Only through the common effort of EU institutions, Member States, stakeholders, civil society and citizens can we truly uphold the primacy of rule of law as a defining trait of our Union.

Didier Reynders  
Commissioner for Justice





ELI  
EUROPEAN  
LAW  
INSTITUTE

Annual Conference 2020

## 2020 ELI Annual Conference 8 - 11 September (Online)

The 2020 ELI Annual Conference is a unique opportunity to engage in discussions on the most relevant legal issues in Europe and beyond.

All elements of the Annual Conference are taking place online this year and will be freely accessible to ELI Members through links already provided by email. If you require these links again, do not hesitate to [contact the ELI Secretariat](#). On page three of this newsletter is an overview of the agenda and on pages four to seven an overview of the expert speakers.

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### Highlights Include:



#### Keynote Speech: The Rule of Law in the EU

by European Commissioner for Justice  
Didier Reynders



#### Welcome Address

by Austrian Minister of Justice  
Alma Zadić



#### Second Ole Lando Memorial Lecture: Contract Law and Human Dignity

by Professor Christian von Bar

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## TUESDAY | 8 SEPTEMBER

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- 09:00 - 12:00 CET Council Meeting (Council Members only)
- 14:00 - 16:00 CET Council Meeting (Council Members only)
- 18:00 - 18:15 CET **Welcome and Introduction**
- 18:15 - 19:45 CET **Second Ole Lando Memorial Lecture: Contract Law and Human Dignity**  
(Christian von Bar, Professor at the University of Osnabrück)

## WEDNESDAY | 9 SEPTEMBER

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- 09:00 - 12:00 CET Council Meeting (Council Members only)
- 13:00 - 14:00 CET Membership Meeting
- 16:30 - 17:00 CET **Welcome Addresses**  
(Christiane Wendehorst, ELI President; Alma Zadić, Austrian Minister of Justice)
- 17:00 - 18:00 CET **Keynote Speech** (Didier Reynders, European Commissioner for Justice)
- 19:00 - 19:45 CET ELI Young Lawyers Award
- 19:45 - 20:00 CET ELI SIG and Hub Awards

## THURSDAY | 10 SEPTEMBER

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- 09:00 - 10:15 CET **Artificial Intelligence (AI) and Public Administration – Developing Impact Assessments and Public Participation for Digital Democracy**
- 10:30 - 11:30 CET **Admissibility of Criminal Evidence in the Digital Age**
- 11:45 - 13:00 CET **Blockchain and Smart Contracts**
- 15:00 - 16:15 CET **Principles for a Data Economy**
- 16:30 - 17:45 CET **Access to Digital Assets**
- 19:45 - 21:00 CET **ELI-UNIDROIT European Model Rules of Civil Procedure**
- 21:00 - 21:30 CET Insolvency Law Book Launch

## FRIDAY | 11 SEPTEMBER

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- 09:00 - 10:15 CET **Business and Human Rights - Access to Justice and Effective Remedies**
- 10:30 - 11:30 CET **Independence of Judiciary**
- 11:45 - 12:45 CET **Fundamental Constitutional Principles**
- 14:00 - 15:00 CET **The Concept and the Role of Courts in Family and Succession Matters**
- 15:15 - 16:15 CET **EU Conflict of Laws for Companies**
- 17:30 - 18:30 CET **Corporate Sustainability, Financial Accounting and Share Capital**
- 18:45 - 19:45 CET Coronavirus and the Law Book Launch

**Artificial Intelligence (AI) and Public Administration - Developing Impact Assessments and Public Participation for Digital Democracy** (10 September 09:00 - 10:15 CET)

.....

**Jens-Peter Schneider** (Chair), Péter Darák, Jonathan Dollinger, Jane Reichel, Katarzyna Ziółkowska



Jens-Peter Schneider



Péter Darák



Jonathan Dollinger



Jane Reichel



Katarzyna Ziółkowska

**Admissibility of Criminal Evidence in the Digital Age**  
(10 September 10:30 - 11:30 CET)

.....

**André Klip** (Chair), Lorena Bachmaier Winter, Peter Csonka, Jorge Espina Ramos



André Klip



Lorena Bachmaier Winter



Peter Csonka



Jorge Espina Ramos

**Blockchain Technology and Smart Contracts**  
(10 September 11:45 - 13:00 CET)

.....

**Sjef van Erp** (Chair), Martin Hanzl, Stephan Karpischek, Juliette Sénéchal, Dirk Staudenmayer



Sjef van Erp



Martin Hanzl



Stephan Karpischek



Juliette Sénéchal



Dirk Staudenmayer

**Principles for a Data Economy**  
(10 September 15:00 - 16:15 CET)

.....

**Lord John Thomas, Steven O. Weise** (Co-Chairs), Neil Cohen, Ioana Hreninciuc, Elettra Ronchi, Christiane Wendehorst



Lord John Thomas



Steven O. Weise



Neil Cohen



Ioana Hreninciuc



Elettra Ronchi



Christiane Wendehorst

### Access to Digital Assets

(10 September 16:30 - 17:45 CET)

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**Jos Uitdehaag (Chair)**, Phoebus Athanassiou, Yannick Meneceur, Sir Geoffrey Voss, Sjef van Erp



Jos Uitdehaag



Phoebus Athanassiou



Yannick Meneceur



Sir Geoffrey Voss



Sjef van Erp

### ELI-UNIDROIT European Model Rules of Civil Procedure

(10 September 19:45 - 21:00 CET)

.....

**Anna Veneziano (Co-Chair)**, **Diana Wallis (Co-Chair)**, Marco de Benito, Paul Oberhammer John Sorabji, Rolf Stürner



Anna Veneziano



Diana Wallis



Marco de Benito



Paul Oberhammer



John Sorabji



Rolf Stürner

### BOOK LAUNCH: Rescue of Business in Europe

(11 September 21:00 - 21:30 CET)

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Gert-Jan Boon, Tatjana Josipović, Stephan Madaus, Ignacio Tirado, Christiane Wendehorst, Bob Wessels



Gert-Jan Boon



Tatjana Josipović



Stephan Madaus



Ignacio Tirado



Christiane Wendehorst



Bob Wessels

### Business and Human Rights - Access to Justice and Effective Remedies

(11 September 09:00 - 10:15 CET)

.....

**Jonas Grimheden (Chair)**, Catherine Kessedjian, Robert McCorquodale, Ilaria Pretelli, Lise Smit



Jonas Grimheden



Catherine Kessedjian



Robert McCorquodale



Ilaria Pretelli



Lise Smit

## Independence of Judiciary

(11 September 10:30 - 11:30 CET)

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**Fryderyk Zoll (Chair)**, Giuseppe Ferrari, Thorsten Ingo Schmidt, Daniela Piana, Shimon Shetreet, Lord John Thomas



Fryderyk Zoll



Giuseppe Ferrari



Thorsten Ingo Schmidt



Daniela Piana



Shimon Shetreet



Lord John Thomas

## Fundamental Constitutional Principles

(11 September 11:45 - 12:45 CET)

.....

**Takis Tridimas (Chair)**, Laurent Pech, Silvana Sciarra, Krzysztof Wojtyczek, Alison Young



Takis Tridimas



Laurent Pech



Silvana Sciarra



Krzysztof Wojtyczek



Alison Young

## The Concept and Role of Courts in Family and Succession Matters

(11 September 14:00 - 15:00 CET)

.....

**Anatol Dutta (Chair)**, Elena Bargelli, Matthias Neumayr, François Trémosa



Anatol Dutta



Elena Bargelli



Matthias Neumayr



François Trémosa

## EU Conflict of Laws for Companies

(11 September 15:15 - 16:15 CET)

.....

**Georg Kodek (Chair)**, Luca Enriques, Jessica Schmidt, Chris Thomale



Georg Kodek



Luca Enriques



Jessica Schmidt



Chris Thomale

### Corporate Sustainability, Financial Accounting and Share Capital

(11 September 17:30 - 18:30 CET)

.....

**Yuri Biondi (Co-Chair), Corrado Malberti (Co-Chair),** Colin Haslam, Vera Palea, Jean-Philippe Robé, Maria di Sarli



Yuri Biondi



Corrado Malberti



Colin Haslam



Vera Palea



Jean-Philippe Robé



Maria di Sarli

### BOOK LAUNCH: Coronavirus and the Law

(11 September 18:45 - 19:45 CET)

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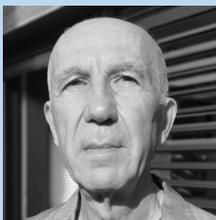
**Ewoud Hondius (Chair),** Andrea Nicolussi, Pablo Salvador Coderch, Marta Santos Silva, Christiane Wendehorst, Fryderyk Zoll



Ewoud Hondius



Andrea Nicolussi



Pablo Salvador Coderch



Marta Santos Silva



Christiane Wendehorst



Fryderyk Zoll

## Participate! Inviting ELI Members to Contribute

At the heart of every ELI Annual Conference are ELI members and their contributions – this year is no different. Reporters or Chairs of current ELI projects are keen to hear your feedback as part of the conference discussions.

Moreover the Membership Meeting (9 September, 13:00-14:00) is your chance to hear updates from the Ex-

ecutive Committee and other Committee Chairs about the functioning of the Institute and its future plans.

Q&A sessions will follow almost every event on the programme, and we are looking forward to hearing the participants' comments and questions.

Would you like to ask European Commissioner Didier Reynders a ques-

tion? Or share your perspective on Christian von Bar's keynote speech?

The ELI Annual Conference offers a rare opportunity to do so – make sure you are part of it!

Sign up for any of these events using the already links sent to you by email. Do [get in touch with the Secretariat](#) if you need them again.



# The Concept and Role of Courts in Family and Succession Matters

by Costanza Honorati

## Party autonomy and the increasing success of out-of-court proceedings in family matters

Over the last decade party autonomy has become increasingly important both on substantial and PIL family law and has greatly impacted both these fields. While the two are obviously connected, this spotlight shall focus only on the latter.

A first step in PIL family law was the introduction of party autonomy in conflicts of law provisions. Allowing a choice-of-law in family relations has changed the perspective of 'private' relations in family matter and – together with other factors – has led to the second step, which attaches a role to party autonomy in the administration of justice. States have lately acknowledged that family conflicts may benefit from out-of-court solutions and settlements, and that some kind of ADR proceedings may be beneficial to all parties involved: spouses/parents, children and, indeed, the State itself. As a matter of fact, out-of-court settlement of disputes in family matters, including succession law, lessens the pressure on court proceedings.

The advantages of solving family crisis through an agreement shared by the parties involved, combined with the prospect of a reduction of court proceedings, has moved a number of EU Member States to introduce in their legal systems new mechanisms to settle family conflicts. For instance out-of-court divorces exist in many EU Member States, such as Belgium, Estonia, Finland, France, Italy, Latvia, Malta, Netherlands, Portugal, Romania, Slovenia, Spain and Sweden.<sup>1</sup> Although resting on an agreement reached between the parties, divorc-



es arising from these kind of proceedings shall not be considered as 'private' divorces. Indeed, in most cases, their legal effects follow from the registration, approval or authorization by some kind of public (sometimes judicial) authority. Furthermore, a similar evolution can be seen in the field of parental responsibility and in succession matters. While a significant difference is noticeable within each domain and within each State, data clearly show a trend towards the administration of these issues through different proceedings placing themselves halfway between some form of advanced ADR mechanism and more traditional voluntary jurisdiction.

## Cross-border circulation of agreements: a gap in EU PIL

As a consequence of the aforementioned evolution within national legal systems, the issue of circulation of non-judicial deeds has come to the forefront, showing a gap within EU PIL rules.

It is well known that, when implementing the principle of mutual

recognition, the EU legislator had in mind only the circulation of judicial decisions. All EU PIL acts in the field of family law – in particular, the Brussels IIbis Regulation (No 2201/2003); the Maintenance Regulation (No 4/2009); the Succession Regulation (No 650/2012) – deal with jurisdiction, applicable law, recognition and enforcement of decisions and cooperation of Central Authorities, having in mind court proceedings ending with judicial decisions. At face value, these rules would appear inappropriate to cope with the emerging needs.

A few years ago, the Hague Conference of Private International Law set up an Expert Group to study the feasibility of new rules focusing on the circulation of agreements in family matters involving minors.<sup>2</sup> The aim was the feasibility of an instrument allowing family agreements to circulate as such. For example, the group highlighted the need for a one-stop-shop competence in order to handle so-called 'package agreements' – i.e. agreements covering issues that fall under different Regulations due to the current fragmentation of PIL rules.

1. For a brief overview of the peculiarities in each of the mentioned Member States, see G. Buffone, *Agreements Concluded by Spouses in the Matter of Divorce or Legal Separation: the "Dogma" of Recognition and Enforcement within the European Area*, in *Themis Annual Journal*, 2019, p. 111 seq.

2. See Overview of the findings of the Experts' Group, Doc. 2 of January 2020, at <https://www.hcch.net/en/projects/legislative-projects/recognition-and-enforcement-of-agreements>

The EU legislator appears to have chosen the opposite approach. Agreements are not considered as such, but only in so far they parallel judicial decisions.

### **The partial solution proposed by the Brussels IIter Regulation and new problems**

One of the most interesting outcomes of the new Brussels IIter Regulation (No 2019/1111, applicable from August 2022) is the opening to cross-border circulation of agreements. This result – which was not proposed by the Commission, but arose during the negotiations in the Council – has however been achieved through an extension of the rules set for judicial decisions. No special rule has been drafted for this purpose. Indeed Article 65 declares that Section I and Section III of Chapter IV (on recognition and enforcement of decisions) shall apply accordingly to agreements (and authentic instruments). By defining an ‘agreement’ as any document which is concluded by the parties and – most importantly – registered by the public authority which each Member State has previously communicated to the Commission, and a ‘court’ as any authority which has jurisdiction in the matters falling within the scope of this Regulation, the inclusion of out-of-court settlement of disputes in the scope of application of the Brussels IIter Regulation has been completed. As with judicial decisions, such authority is bound to respect the grounds of competence provided by the Regulation and shall be able to is-

sue a certificate. Similar provisions are to be found in the Succession Regulation.

It is doubtful whether such an approach is appropriate and will suffice in the long run. Certainly, as of tomorrow, new issues shall arise.

### **What is in a Court or in a Public Authority?**

The EU legislator, while abiding to opposite rules for the circulation of agreements, has left it to Member States to decide what is a ‘public authority’ and when such entity shall have the power and competence to ‘register’ such agreements, thus fulfilling the conditions for their cross-border circulation. Public authorities might be notaries, lawyers, civil status registrars, court registrars, or many others. Can this be left entirely to national law? Should there be a common understanding of some minimal functions – and guarantees – that a public authority should fulfill?

The problem has now shifted as to what is meant for ‘public authority’ today (and was once called ‘court’) and as to whether there should be common features which identify the essence of it. Furthermore, transposing to agreements rules set for judicial proceedings may be less easy than it seems. For instance, how should a ground of competence be applied in respect of agreements, which by definition are reached through informal and flexible proceedings? How and where shall the hearing of the child

be granted? These and many other questions call for a deeper analysis.

A better understanding of the functions that are necessarily attributed to ‘courts’ is needed, investigating what can be left to private parties and what should remain for the public authority, especially in light of cross-border circulation. The forthcoming research project of ELI’s Family and Succession Law SIG is to be welcomed and strongly encouraged.



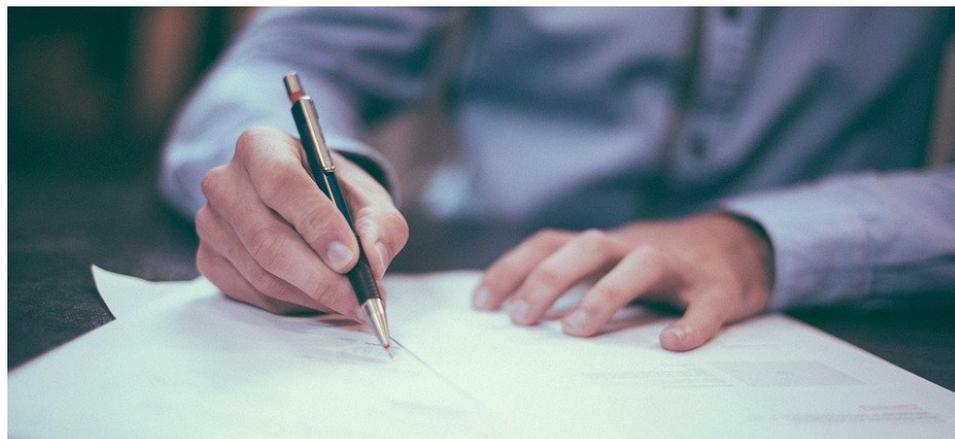
### **The Author**

Costanza Honorati is Full Professor of European Union Law at the Milano-Bicocca University School of Law, where she also holds the chair in Private International Law and, in the past, of Legal Procedure of the EU Court of Justice. She was formerly Professor for International Law at the University of Sassari (1999-2004) and the Head of the PhD Program in Law at the Milano-Bicocca University (2007-2012). She is a lawyer admitted to the Milan bar.

She has strong expertise in the field of Private International Law, in the last years focusing especially on International Family Law.

She was appointed a member of the Expert Group assisting the EU Commission on the Recast of Brussels IIa Regulation (2015) and she further participated as a member of the Italian Delegation to the EU Council’s Working Group for the Regulation’s final draft (2017-2019).

She is currently the Chair of the EJM Working Group on a Guide on Maintenance Obligations.



# ELI-UNIDROIT Model European Rules of Civil Procedure Approved by ELI Bodies

**We are thrilled to announce that the ELI Council and the ELI Membership approved the ELI-UNIDROIT Model European Rules of Civil Procedure on 15 July and 5 August 2020, respectively.**



ELI wishes to express its gratitude to the Members of the Steering Committee, Reporters and Members of the ten Working Groups and Members of the Advisory Committee of this joint ELI and UNIDROIT Project.

Their commitment to this ambitious project and excellent work over a long period of time has culminated in results which all those involved, as well as the wider ELI and UNIDROIT communities, can be very proud.

The ELI and UNIDROIT aimed at adapting the American Law Institute-UNIDROIT Principles of Transnational Civil Procedure, published in 2004, to a European perspective in order to develop Model European Rules of Civil Procedure. The goal of the work was to reduce uncertainty for parties litigating in unfamiliar surroundings and promote fairness in judicial proceedings.

The project was adopted in February 2014 (Council Decision 2014/5) and a total of ten Working Groups, consisting of leading experts in civil procedure law (academics, judges and practitioners) from over 16 countries, were established.

The two organisations worked together in a bid to elaborate the Rules that could constitute a frame of reference for policy makers both at European and national levels. Most importantly, the Team succeeded in striking a balance between the generality and specificity of the Rules, ensuring that they are general enough to be acceptable for all Member States, but at the same time specific enough



Presenting the Project to the Committee on Legal Affairs (JURI) at the European Parliament in 2015. From left to right: Diana Wallis, Eva Storskrubb, Anna Veneziano, Gilles Cuniberti, Fernando Gascón Inchausti.

to promote common standards that allow for an increase of mutual trust.

The Rules have a potential to influence European civil procedure law and have long been eagerly awaited by key decision-making organisations, such as the European Parliament. With these Model Rules, the ELI and UNIDROIT present a model law ready to be further discussed at the EU level and adapted by national legislators, with a view to facilitating and enhancing the judicial cooperation and access to justice in Europe.

The UNIDROIT Governing Council will vote upon the Model European Rules of Civil Procedure at its meeting on 23–25 September 2020.

If approved by UNIDROIT, the ELI-UNIDROIT Model European Rules of Civil Procedure will be published on the [ELI website](#).



The Steering Committee and Reporters of the ELI-UNIDROIT Model European Rules of Civil Procedure, pictured in Rome in 2014. From left to right: Gilles Cuniberti, Eva Storskrubb, Neil Andrews, Astrid Stadler, Rolf Stürner, José Angelo Estrella Faria, Remo Caponi, John Sorabji, Anna Veneziano, Fernando Gascón Inchausti, Diana Wallis, Lena Peters (UNIDROIT Secretariat).

## ALI-ELI Principles for a Data Economy

**The Project Team has held regular meetings to work on the current draft and prepare for a presentation and discussion at the ELI Annual Conference.**

Progress continues to be made on the ALI-ELI Principles for a Data Economy project, led by Neil B Cohen and Christiane Wendehorst (Project Reporters) and Lord John Thomas and Steven O Weise (Project Chairs). Having met on several occasions during the past months, the Reporters have now finalised

‘Preliminary Draft No 4’ of the Principles. The project will be discussed as part of the upcoming Annual Conference and all ELI Members are invited to attend the webinar-style discussion and Q&A session. See page four of the newsletter for more details and read more about the project [here](#).



## Blockchain Technology and Smart Contracts

**The Team held meetings in July and August to advance their work ahead ahead of the webinar on the project which will take place as part of the Annual Conference.**

On 2 July, the Blockchain Technology and Smart Contracts Project Team members and Assessors convened remotely to continue the discussion on the project’s developments. The meeting focused on the delimitation of the scope of the project, as technologies are developing fast and certain char-

acteristics of blockchain technology are also present in other systems. Participants discussed issues of functional equivalence of transactions on blockchain with regard to the rules of private international law as well as legal aspects of triggering of transactions performed on a blockchain.

ELI Members are invited to hear from Project Team members and other experts during the webinar on 10 September 2020, see page four for details. More information about this project is available [here](#).

## Business and Human Rights

**Members of the Business and Human Rights Project Team convened remotely on 19 August 2020 to discuss the way forward and drafting progress.**

The discussions focused on the revised Chapter covering issues of private international provisions with regard to access to remedy. Team members also provided a short update on the drafting progress of other Chapters and spoke about the project’s webinar which will take place as part of the ELI Annual Conference on 11 September (09:00 to

10:15 CET), and preparation of the draft output to be shared with the ELI Council prior to its meeting next month.

Two of the project’s Assessors, Corrado Malberti and Lord John Thomas, also joined the meeting. Read more about the project [here](#).



## AI and Public Administration

**The Artificial Intelligence (AI) and Public Administration – Developing Impact Assessments and Public Participation for Digital Democracy Project Team met remotely on 25 August 2020.**

The meeting focused on preparations for the upcoming ELI Annual Conference webinar devoted to the project. The webinar will take place on 10 September from 09:00–10:15 CET and

all ELI Members are encouraged to attend. Participants also discussed the revised structure of the Model Rules that are currently being developed by the Team as well as possible meetings

with the project’s Advisory Committee and Members Consultative Committee in October and November, respectively. Read more about the project [here](#).

## Meeting with Vice President Margrethe Vestager's Head of Cabinet

**On 7 July 2020 a remote meeting was held between Kim Jørgensen, Head of the Cabinet of Executive Vice President of the European Commission Margrethe Vestager, and the ELI leadership.**

Joining ELI President Christiane Wendehorst at the meeting were First Vice-President Lord John Thomas, Second Vice-President Pascal Pichonnaz and Executive Committee member Anne Birgitte Gammeljord.

After briefly presenting ELI's work to Mr Jørgensen, the meeting allowed for a discussion of the avenues through which ELI and the European Commission can continue to interact closely, including the role of ELI in public consultations.



## ELI President at the ULCC Annual Conference

**ELI President Christiane Wendehorst participated in the Annual Meeting of the Uniform Law Conference of Canada (ULCC) held online this year from 11-13 August.**

Since its foundation in 1918, the ULCC has worked to harmonize the laws of the provinces and territories of Canada, and where appropriate the federal laws as well. The ULCC is also able to recommend improvements to existing legislation by identifying, for example, deficiencies, gaps in the

law, or problems resulting from the interpretation of it. In this way, its aims are closely aligned to those that the ELI has for a European context.

The ULCC is split into a Civil and Criminal Section. At this year's conference the Civil Section focused

on four topics: Unauthorised Disclosure of Intimate Images; Court Jurisdiction and Proceedings Transfer Act; Electronic Wills and Powers of Attorney; Benevolent and Community Crowdfunding.

## ELI Senate Welcomes New Member

**Judge Marta Cartabia, current President of the Constitutional Court of Italy, has joined the Senate of the European Law Institute.**



Judge Cartabia has been a Judge at the court since 2011 and was appointed Vice President in November 2014.

She is a Professor of Constitutional Law and has taught at several Italian universities as well as being a Visiting Scholar and Professor in France, Spain, Germany and the USA.

In 2009–2010, she was an Inaugural Fellow at the Straus Institute for Advanced Study in Law and Justice at the New York University. She also held the Clynes Chair in Judicial Ethics at the Notre Dame University, Indiana, in 2013.

Since December 2017, she has been a Substitute Member for Italy of the European Commission for Democracy through Law of the Council of Europe, also known as the Venice Commission.

Judge Cartabia's appointment follows the retirement of Sabino Cassese from the Senate.

Mr Cassese has been an integral member of the ELI since its earliest stages and, despite retiring from the Senate, he remains an active member of the ELI in several other capacities.

## ELI Welcomes its New Members

ELI is pleased to welcome the following new members, whose applications were approved by the ELI Council recently.

### New Individual Members:

- Arianna Alpini
- Chris Backes
- Matthias Lehmann
- Justyna Sarkowicz
- Sanmit Seth
- Shimon Shetreet
- Guillem Soler Solé
- Tamás Szabados

### Sustaining Members:

The following members have joined us, or changed their membership to that of Sustaining Members, who pay an additional 60 EUR per year to support ELI's work:

- Angelo Jr Golia
- Petra Lea Láncoš
- Jonathan McGowan

### Have you published recently? Let us know.

ELI's newsletter, which is published every two months, reaches an audience of around 2,500 registrants and provides an excellent channel to showcase your latest publications. We would like to invite all ELI Members that have published books shortly before each issue of our Newsletter to inform the [ELI Secretariat](#) so we can showcase this to our readership.

### Stay in touch with ELI!

We are doing our best to bring up-to-date news about ELI, project developments, representations and upcoming events to ELI Members and friends through our Newsletter and social media channels. It is important to all of us at ELI that we stay connected with you. Should your contact details change, please be so kind as to inform the ELI Secretariat. We also wish to invite those of you that are yet to do so to follow us on our Twitter and Facebook pages and to add us to your LinkedIn network.



## Jagran Lakecity University School of Law



JLU Bhopal is one of the fastest growing and most awarded universities of Central India, having practice based pedagogy at its core. Currently, the university is offering 56 degree programmes to more than 2,500 students from eight countries and 27 states of India.

The University has 27 partnerships with top industries and international universities ensuring the students get great exposure both nationally and internationally. JLU Bhopal is the only

participating university from Central India in the ERASMUS+ programme under the Tuning India Project, funded by the European Commission and is also currently the country chair for the Association of Universities of Asia Pacific (AUAP). The University has been bestowed with several prestigious awards, such as 'University of the Year' by the Government of Madhya Pradesh for four consecutive years in 2015, 2016, 2017 and 2018 and was recognized as a 'Global League Institution' in 2015 at the House of Commons, London, UK. JLU Bhopal has been ranked 'No. 1 Private University in Madhya Pradesh' in the years 2016, 2017, 2018 and 2019 by several leading publications.

## European Circuit of the Bar



The European Circuit is a volunteer organisation engaged in professional education for European lawyers with cross-border practices and/or who are interested in comparative law.

Our objective is to provide a forum for legal education, debating, sharing 'best practice' in European law and comparative law and networking. Established in 2001, the European Circuit was the first new circuit to be created in some 300 years and was inaugurated in a ceremony in the Old Hall, Lincoln's Inn. Its creation was an attempt to address the realities of the 21st century, in which there is great-

er contact than ever before between lawyers in different jurisdictions within Europe.

Given this fact, it was felt that there was a growing need for a forum for those lawyers in which to meet and discuss practical matters arising from this increased trans-border activity.

Currently members of the Circuit come from England and Wales and Ireland and from a variety of other jurisdictions within Europe including Belgium, Italy, Luxembourg, France and Germany.

# Business and Financial Law SIG at the SASE Research Network's Annual Conference

**The ELI Business and Financial Law SIG organised a panel on 'The Case for Corporate Sustainability: Implications for Company Law and Financial Accounting' at the Society for the Advancement of Socio-Economics (SASE) Research Network's virtual conference on 21 July 2020.**

The panel was chaired by Professor Shyam Sunder (Yale University). Professor Colin Haslam (Queen Mary University of London) started by providing preliminary findings from the ELI SIG report on 'Company capital management: Safeguarding financial resilience for corporate sustainability'. Evidence was provided that a significant proportion of companies in the US and EU has been exposed to aggressive practices of equity capital management, eroding their capacity to remain solvent, resilient and sustainable in the longer term.

Professor Vera Palea (University of Turin) argued for a more meaningful definition of long-term equity investments, drawing on the EU's concerns that current international accounting standards may be inappropriate to pursue the United Nations Sustainable Development goals as well as achieve the targets of the Paris Agreement on climate change.

Dr Julia Morley (London School of Economics) provided an evidence-based analysis of the International Accounting Standards Board (IASB)'s standard-making process, showing how a few fair value advocates amidst its membership were able to exert a disproportionate influence over discursive norms, defeating the due process intended to guarantee democratic decision-making.

Dr Matthew Sooy (Ivey Business School) presented experimental results showing that fair value accounting may lead to mispriced securities while encouraging speculative behaviour in financial market operations. Professor Shyam Sunder contributed to the final discussion by recalling that the very label of 'fair value' is loaded with embedded and highly evocative value judgement relating it to fairness and social justice. Choice of such evocative labels has been an effective rhetorical device

to direct policy outcomes towards pre-determined ends over history. The so-called fair value advocacy tries to derive accounting from the markets instead of providing accounting information for the markets to operate properly. Dr Yuri Biondi (Centre national de la recherche scientifique, CNRS) added that such fundamental information should come from the business firm, not from the markets, contrary to the fair value accounting approach.

Altogether, the panellists shared the view that accounting numbers, rules and norms have a critical although neglected impact on corporate management, corporate governance and financial market price formation, involving important consequences and implications for business, economy and society.

More information can be found in the programme [here](#).

## Company Law and Corporate Governance Conference in Zagreb in November

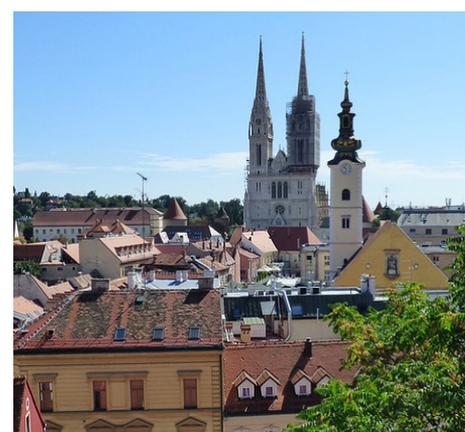
**The 4th International Conference on European Company Law and Corporate Governance, involving the ELI Business and Financial Law SIG, will take place in Zagreb in November.**

The Conference will gather leading European researchers and experts in the field of company law and corporate governance, as well as students and young scholars.

The Conference will focus on current issues in the field and will provide the opportunity for participants to keep pace with the latest developments on European company law and corporate governance.

A panel on the SIG's feasibility study on Corporate Sustainability, Financial Accounting and Share Capital will be organised. [Click here to read more about the ELI Business and Financial Law SIG.](#)

More information is available [here on the event's website](#). Please note that the call for abstracts has been extended until 15 September 2020 and is available [here](#).

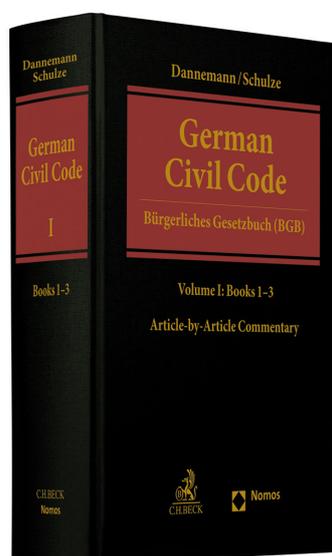


# ELI Fellows Publish Commentary on the German 'Bürgerliches Gesetzbuch'

**Council Member Reiner Schulze and Fellow Gerhard Dannemann are the co-editors of an English language commentary on the German Civil Code.**

The German 'Bürgerliches Gesetzbuch' is the very backbone of German civil law. Its legal concepts and principles are essential for the understanding of the law of one of Europe's major legal systems.

Edited by Prof. Dr. Gerhard Dannemann (Berlin) and Prof. Dr. Reiner Schulze (Münster), and with contributions from over 30 authors, a new English language commentary on Books I–III of the BGB now allows lawyers worldwide to gain invaluable insights into the concepts, structures and terminology of the German BGB.



*'Even if you are not familiar with German law, this commentary will help you to understand the BGB and gain an overview of current legal theory and court decisions.'*

**Christine Lambrecht,  
German Federal Minister of Justice  
and Consumer Affairs**

ELI Members can purchase the book with an exclusive 10 % discount valid until 20 September 2020. To do so [please click here to access an electronic order form.](#)

## Meetings and Events Calendar At-A-Glance

Below is a list of upcoming ELI meetings and events. Please save the dates and stay updated by following our website or social media channels for more details.

### September 2020

- 7 September - **Executive Committee Meeting and Joint Executive Committee-Senate Meeting** (Online)
- 8–9 September - **Council Meeting** (Online)
- 9–11 September - **ELI Annual Conference** (Online)
- 25 September - **Business and Human Rights Project Team Meeting** (Online)

### October 2020

- 8 October - **AI and Public Administration Project Team Meeting** (Online)
- 27 October - **AI and Public Administration Project Team Meeting with Advisory Committee** (Online)

### November 2020

- 5–6 November - **Fifth Spanish-German Hub Meeting on Private Law** (organised by ELI's Spanish and German Hubs) (Location tbc)
- 12–13 November - **Conference on Environmental Sustainability and 'European Green Deal': Values, Innovation and Regulation, organised by ELI's Environmental Law SIG** (Ferrara)
- 26–27 November - **Conference on Company Law and Corporate Governance, involving the ELI Business and Financial Law SIG** (Zagreb)

# European Law Institute

- Pan-European, democratic, membership-based organisation
- Uniting prominent jurists of all legal professions
- Aiming to improve the law in Europe
- Carrying out projects with immediate practical application

Members of ELI can contribute to its projects and gain access to an international network of jurists. Apart from other activities, ELI organises its Annual Conference and Meetings, bringing together Europe's leading experts in diverse fields of law.

## Executive Committee

President:	Christiane Wendehorst
First Vice-President:	Lord John Thomas
Second Vice-President:	Pascal Pichonnaz
Treasurer:	Denis Philippe
Other Members:	Anne Birgitte Gammeljord Pietro Sirena Fryderyk Zoll

## 2020 ELI Conference

The 2020 ELI Annual Conference will take place from **9–11 September** online. Please take note of this date.

We look forward to seeing you there!

## ELI in Vienna

The Secretariat of ELI, which is hosted by the University of Vienna, is located in the heart of the Austrian capital, close to the main building of the University, the representation of the European Commission in Austria as well as the information office of the European Parliament.

We cordially invite you to visit us whenever you are in Vienna.



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