



**ELI**  
EUROPEAN  
LAW  
INSTITUTE

Bringing Legal Experts Together

# Newsletter

Issue 2: March–April 2021

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Cover Letter on Vaccinations Against COVID-19



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By the 19 April 2021, half of the adult population of the USA had already received at least one COVID-19 shot. Under such circumstances, the Center for Disease Control and Prevention (CDC) developed a new series of recommendations on how vaccinated people should behave.

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# Message from Emer Cooke

## Executive Director of EMA

Dear ELI Members and Friends

It is an honour for me, as Executive Director of the European Medicines Agency (EMA), to address all of you from the ELI Newsletter in the year of ELI's Decennial Celebration and for an issue related to the COVID-19 crisis. As you know, EMA is at the forefront of the global efforts to save lives during this pandemic, by expediting the development and approval of safe and effective treatments and vaccines, supporting the continued availability of medicines in the EU, and providing reliable information to patients and healthcare professionals.

I am particularly delighted to contribute to this Newsletter as I glimpse meaningful similarities between the Institute and the Agency that I am directing since November last year. By their endeavours, both the ELI and EMA are intimately connected to the European integration project, and both take a genuinely pan-European perspective.

The resemblances do not end here. This crisis brings to the surface a couple of interesting themes, that lie at the intersection between EMA's activities and ELI's works. ELI provides practical guidance in relation to legal development in the European space of freedom, security and justice. Over the last months, health security, which EMA strives to ensure through its public health mission, emerged as a constituent element of this

European space of freedom, security and justice.

So far relegated to the debates on the use of forensic in the criminal justice system and on expert witnesses appearing in court, the relationship between law – the remit of ELI – and science – the role of EMA – stands out in these pandemic times. Now more than ever it is apparent the role of science serving the public good, and the richness and complexity of the relation between science and law. Ultimately, we are all reappraising 'the law's role in maintaining public health'.<sup>1</sup>

As Robin Feldman put it, the allure of science has always captivated members of the legal professions.<sup>2</sup> I have no doubts that this feeling strikes many of your Members as familiar. Today more than ever, European and national legislators are turning to science, by definition policy-neutral, as a rationale underpinning the exceptional measures to get control over the spread of COVID-19. The recognition of this interlink is integral to the understanding of how public institutions translate the science into public policy, making science policy-relevant.

<sup>1</sup> J Montgomery, *Health Care Law*, Oxford University Press, 2002, p 4.

<sup>2</sup> Robin Feldman, *The Role of Science in Law*, Oxford University Press, 2009.



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As Commissioner Reynders noted from the columns of this Newsletter, the pandemic has proven that in times of a crisis law, and the rule of law, is more important than ever. The ELI's initiative of developing principles for the COVID-19 crisis is yet another concrete evidence of it. Important legal issues arise from this public health crisis: fundamental rights and freedoms, protection of personal data, the right to information from trusted sources, freedom of movement, to mention just a few, are areas of law that have been deeply impacted by the COVID-19 pandemic. This exceptional moment makes us reappraise the authority and responsibility of both the EU – despite the limited competences attributed

to it in this area by the Treaties – and national governments in ensuring the conditions for population’s health.

The case of the vaccines and medicines against COVID-19, that forms the subject of this issue and to which EMA is passionately devoting endless efforts, epitomises what makes health public and gauges the close connection between science, health and law.

Looking ahead, a key challenge in this regard is for law, admittedly striving for consistency and finality, to keep the pace of ever-changing technology and to reconcile with the pervasively open-to-revision domain of science. As such, the study of how to find law in science and science in law - to quote the title of an old yet modern article authored by Justice Holmes<sup>3</sup> - is now more critical than ever. At EU level

<sup>3</sup> Oliver Wendell Holmes Jr., Law in Science and Science in Law, Harvard Law Review, Vol 12, No 7 (Feb 25, 1899), p 443-463.

several initiatives, for example in the area of artificial intelligence in which also ELI is actively engaged, seem to pave the way for the right direction of travel towards a renovated, evolving, data-driven regulation. EMA itself aims at being at the cutting edge of these developments and has been setting the scene for the best possible exploitation of real-world data, digital technologies and computational power in relation to medicines evaluation.

As a fond science advocate and as European citizen, I hope that this public health crisis can ultimately transform into an opportunity to bridge the gap between law and science, and I remain very confident that, equipped with the vaccines and medicines that science is providing us with, we will be soon returning to a renovated normality.



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# 2021 Supplement to the ELI Principles for the COVID-19 Crisis

**On 14 April 2021, the ELI Council approved the 2021 Supplement to the ELI Principles for the COVID-19 Crisis, which addresses the issue of the proportionality of measures in cases of a low epidemiological risk and the issue of the equitable distribution of vaccines.**

In May 2020, ELI published the ELI Principles for the COVID-19 Crisis, which were since then translated into several languages and proved useful and insightful throughout Europe and beyond. Now, almost a year since the publication, the pandemic situation changed and certain new legal issues are emerging, for example in relation to vaccination and testing.

The European Commission published on 17 March 2021 a strategy for a common path to Europe's safe re-opening, which includes, inter alia, the basis for a Europe-wide Digital Green Certificate. However, important decisions, including which restrictions to lift under which circumstances, remain with the individual Member States. The same holds true for the rollout and prioritisation of vaccinations. In the same vein as the existing ELI Principles for the COVID-19 Crisis, ELI wishes to provide further guidance on these issues by way of supplementing these Principles with two new Principles dealing with these matters.

The 2021 Supplement was prepared by the ELI Executive Committee in consultation with ELI Council and with input from its Members as well as external experts, with due consideration of what has been published by other stakeholders.

PRINCIPLE

# 16

**PROPORTIONALITY OF MEASURES IN CASES OF LOW EPIDEMIOLOGICAL RISK**



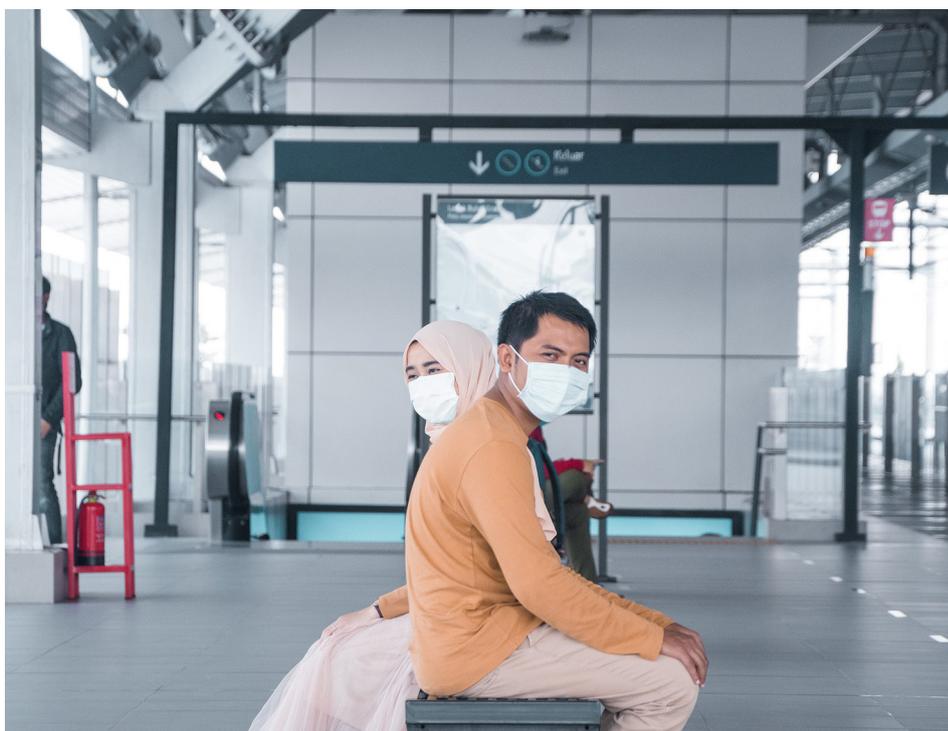
PRINCIPLE

# 17

**EQUITABLE DISTRIBUTION OF VACCINES**

[Read the 2021 Supplement](#)

[Read the Consolidated Version of the ELI Principles for the COVID-19 Crisis and their 2021 Supplement](#)



# ELI Webinar on 'Vaccinations Against COVID-19: Distribution, Privileges and Challenges Ahead – Updating the ELI Principles for the COVID-19 Crisis'

**On 23 March 2021, the ELI Community discussed the draft 2021 Supplement to the 'ELI Principles for the COVID-19 Crisis', which addresses issues that emerged in the context of vaccination and its impact on human rights and freedoms.**

The second ELI webinar in the Institute's 2021 webinar series brought together over 100 ELI Members and Friends from Europe and beyond.

ELI First Vice-President and Chair of the webinar, Lord John Thomas, pointed out that as Europe is searching its ways for emerging from the crisis of the pandemic, it is necessary to provide further guidance to the decision makers. In particular, the proposed additional Principles provide legal guidance on how a fair and equitable emergence from crisis could look like.

Christiane Wendehorst (Professor, University of Vienna; ELI President) discussed Principle 16 of the draft 2021 Supplement that revolves around the proportionality of measures. As some countries are experiencing a third wave of the COVID-19 pandemic and other have high percentages of people already vaccinated against the coronavirus, the question of when states should lift restrictions arises. The European Commission recently proposed the introduction of a Digital

Green Passport, which would lift restrictions on an individual basis.

Pascal Pichonnaz (Professor, University of Fribourg; ELI Second Vice-President) explained Principle 17 of the draft 2021 Supplement that addresses the issue of equitable distribution of vaccines. Although vaccination strategies greatly vary from country to country, the administration of vaccines should always adhere to the principles of fairness and equality. The principle of international solidarity is also at play, since it might be less effective to have a high rate of vaccination in Europe, but still high needs in other parts of the world.

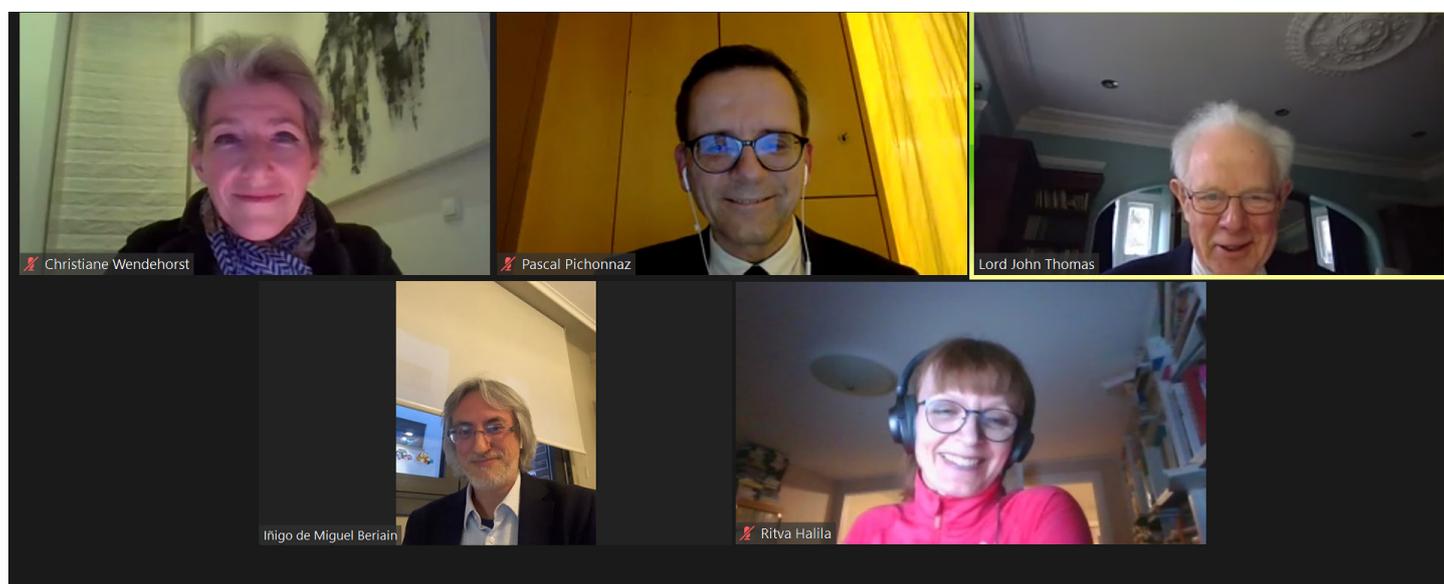
Ritva Halila (Chair of the Committee on Bioethics (DH-BIO) of the Council of Europe; Senior Medical Officer, Ministry of Social Affairs and Health, Finland) pointed out the dichotomy of the wish to mitigate the crisis and lack of available vaccines. It would be of utmost importance to develop a procedure that is non-discriminatory in design and ensures that all eligible

individuals receive vaccines without barriers.

Iñigo de Miguel Beriain (Ikerbasque Research Professor, University of the Basque Country, Participatory Approaches to a New Ethical and Legal Framework for Information and Communication Technologies (PANELFIT) Project) discussed how a passport that shows whether someone is infectious or not could be designed and emphasised that issues related to discrimination, equity, privacy, and data protection would need to be tackled.

A lively discussion focusing on the adherence to the rule of law, in the context of vaccination as well as when emerging out of the pandemic, and on the right to choose particular vaccination, followed.

[Watch the Webinar](#)



# Spotlight

## COVID-19 Vaccinations Without Discrimination

by Iñigo de Miguel Beriain

By the 19 April 2021, half of the adult population of the USA had already received at least one COVID-19 shot. Under such circumstances, the Center for Disease Control and Prevention (CDC) developed a new series of recommendations on how vaccinated people should behave. Now they are allowed to: visit inside a home or private setting without a mask with other fully vaccinated people of any age or with one household of unvaccinated people who are not at risk of severe illness; travel domestically without a pre- or post-travel test and without quarantining after travel; travel internationally without a pre-travel test depending on destination and without quarantining after travel. Furthermore, vaccinated persons who have been around someone who has COVID-19 do not need to stay away from others or get tested unless they have symptoms.

This renewed scenario sounds like excellent news, as it sets the path that we hope to follow in the coming months: relaxing restrictions based on public health considerations as the epidemiological situation improves. However, it also involves some challenging ethical and legal issues that can hardly be left apart. First, it should be kept in mind that vaccines are not likely to confer absolute

sterilising immunity. Nor will all vaccinees be efficiently immunised. This means that some of them will spread the virus. Nevertheless, it is true that this happens in the cases of all vaccines and that any form of immunity has weaknesses. Therefore, it does not seem reasonable to oppose the CDC recommendations on this basis, even though this type of argument was once used to reject immunity passports. On the other hand, it is crystal clear that vaccines are not yet available to the entire population of the USA. Therefore, it is arguable that if we allow vaccinated persons to enjoy rights and freedoms that we deny to those who are not vaccinated, we are creating a clearly unacceptable discriminatory framework. This brings us into a necessary conclusion: we should withdraw all privileges granted by the CDC to vaccinees so as to avoid discrimination.

Is this argument sustainable? On the one hand, no, it is not at all. Allowing vaccinated people to enjoy the rights and freedoms mentioned does not imply providing them with a privilege, but rather restoring rights that were restricted for a reason that no longer exists. Indeed, the only ground that justifies a limitation of our basic freedoms is the possibility that we

**Our task must be to limit restrictions of rights and freedoms. These should only apply to those who cannot prove that they are (probably) not contagious. To this end, immunity certificates are an extremely useful tool, since they put on the same level all those who – we can assume – have a low risk of transmitting the virus.**

– Iñigo de Miguel Beriain

constitute a threat to the health of others, in accordance with Article 5 of the European Convention on Human Rights. Once this situation vanishes – by getting vaccinated in this case – the justification for the restriction falls apart. Hence, recuperating our suspended rights is not a privilege at all, but a matter of genuine respect for fundamental rights and freedoms.

However, it is also true that allowing

the enjoyment of these rights only to those who have been vaccinated is discriminatory to other people who can also prove their immunity, such as those who have recently had the disease. In fact, they should be subject to the same regime as the vaccinated since they share the same basic condition: the same assumed protection against spreading the virus. It is probable that if this matching has not been done, it is because there are insufficient vaccines for everyone, and some people might try to infect themselves to gain natural immunity and recuperate their rights. However, this is not and will never be a fair reason to deprive people of their fundamental rights.

However, immunised people are not the only ones who could feel discriminated against. Let us consider the citizens who perform a COVID test every 60 hours, for instance, always with negative results. On what basis could we restrict their fundamental rights? They do not pose a risk to

public health. Should we discriminate against them only for the means they use to prove their safety (a negative test instead of vaccination or natural immunity)?

The arguments exposed in this piece show that we are entering a complex period, in which social groups with different immunological status coexist. Our task must be to limit restrictions of rights and freedoms. These should only apply to those who cannot prove that they are (probably) not contagious. To this end, immunity certificates are an extremely useful tool, since they put on the same level all those who – we can assume – have a low risk of transmitting the virus. They will help us avoid discrimination between non-infectious people while improving the safety of indoor events. This will hopefully combine the need to come back to normal life with the need to minimise the level of social discrimination in the following months.



## The Author



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Iñigo de Miguel Beriain holds a bachelor's in Economics and Business Management and Administration from the University of Navarra (1995) and in Law from the Spanish National Distance Education University (UNED, in Spanish) (1997). In addition, he is a European Doctor in Law by the UNED (2003) and in Philosophy by the University of the Basque Country (2013). To broaden his education and his research, he undertook several research stays, at the universities of Pisa and Trento (Italy), the Jagellonian University of Krakow (Poland) and the University of Pau and Pays de l'Adour (France).

His research is aimed at areas related to the Philosophy of Law, Ethics in the Economy, Bioethics or Medical law. He has participated in several research projects, among which the following can be highlighted: CHIMBRIDS. Chimeras and Hybrids in Comparative European and International Research. Scientific, ethical, philosophical and legal aspects; SYBHEL. Synthetic Biology for Human Health: Ethical and Legal Issues and PANELFIT (funded by the EU Commission, research grant number 788039). Participatory Approaches to a New Ethical and Legal Framework for ICT.

He has acted as a lecturer in many courses, workshops and congresses in universities from different countries. He has published six books and sixty-five book chapters. He has also written more than fifty papers in WOS or SCOPUS indexed journals.



# ELI at 10

ELI celebrates its 10<sup>th</sup> anniversary in 2021. Over the course of the 2021 issues of this Newsletter, we will display ELI's history, Members, and project milestones to commemorate this occasion. In this issue, you are cordially invited to take a trip down the memory lane with us to 2013 and 2014.

## January 2013

*'The American Law Institute welcomes and takes a degree of pride in the formation of the ELI and its rapid progress.'*  
- Lance Liebman, then Director of the American Law Institute (ALI)

## 4 September 2013

The ELI Austrian Hub was launched.



## September 2013

The ELI German Hub was launched.

*'The meeting of informal Hubs at national level should help inspire debate about on-going ELI projects and provide a forum for discussion amongst existing fellows and other colleagues at a local level about possible future work and projects.'* - Diana Wallis, then ELI President

## 25 February 2013

The ELI UK Hub was launched.

## 4–6 September 2013

ELI held its ELI Annual Conference and General Assembly in Vienna. On the last day of the Conference, ELI elected its first Council and a new Executive Committee: Diana Wallis (President), Christiane Wendehorst (Vice-President), Johan Gernandt (Treasurer), Remo Caponi, Marc Clément, Sjef van Erp and John Sorabji.



*'It is a huge honour to be elected President of the European Law Institute. I am convinced that the Institute has a leading role to play in the development of European law in the widest sense; ELI occupies a unique and independent position, able to represent the full diversity and knowledge of the legal community. Nevermore than now do European legislators and policy makers, and more pertinently the citizens of Europe deserve regulations and laws that are up to the task of addressing 21st century life in the global connected community we inhabit; with all its new opportunities and challenges.'* - Diana Wallis upon being elected as ELI President

## December 2013

*'As the Secretary General of the Council of Europe, the continent's leading human rights organisation, I commend the ELI for its achievements in improving the quality of law in Europe.'* - Thorbjørn Jagland, then Secretary General of the Council of Europe

## February 2014

ELI published its response to the 'EU Copyright Rules'.

## 14 April 2014

The ELI Slovenian Hub was launched.



## 26 September 2014

The ELI Croatian Hub was launched.



## February 2014

ELI reached over 50 Institutional Observers.

*'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.'* - Walter Doralt, then Head of the Membership Committee

## July 2014

ELI published its '1<sup>st</sup> Supplement to the Common European Sales Law Statement'.

## September 2014

Over 1,000 have joined ELI as Individual Members.

## 24–26 September 2014

ELI held its ELI Annual Conference and General Assembly in Zagreb.



## December 2014

ELI published its output on 'Collective Redress and Competition Damages Claims'.

# ELI's Response to the European Commission's Proposal for a Common European Sales Law

**Lord John Thomas (Chair) and Christiane Wendehorst (Co-Reporter) of the Project on the Proposal for a Common European Sales Law, share their perspective of working on this ELI project from 2012 to 2016.**

## How would you describe the project outcome in a couple of sentences?

Lord John Thomas (LJT): It brought together all legal traditions in Europe, provided innovative thinking in relation to the evolving digital market and its relation to traditional sales law and produced a revised draft regulation and commentary that had a considerable influence at the time in the EU Institutions and which will shape the future development of European Contract law.

## Why was this project relevant for the development of the European legal order? Does it remain relevant?

Christiane Wendehorst (CW): Even though the Commission's Proposal for a Common European Sales Law was ultimately withdrawn, legislative work at the European level continued in 2015 with proposals for two Directives, one on consumer contracts for the supply of digital content, and the other for the consumer sale of goods. Therefore, also ELI's work on sales law continued with a new focus on the Directives. Already in January 2016, at an ELI conference in Vienna, I presented a blueprint for a 'digitised' sales law that would fully address the legal issues raised by connected consumer goods and the IoT, and a more refined draft was presented at the ELI Annual Conference in September 2017. We are delighted to see that the approach presented at ELI in 2016 and 2017 finally led to very significant changes, and indeed to a paradigm shift, in the consumer sales law Directive.

## What do you consider the direct impact of the project for citizens?

CW: The new consumer sales law Directive

## Quick Facts:

Project Type and Output: [Statement](#), [1<sup>st</sup> Supplement](#), [2<sup>nd</sup> Supplement](#)

Project Period: September 2012–September 2016

Read more about the project [here](#).

finally endorsed the 'five-factor-model' of IoT products and many other details suggested in the course of ELI work in 2016 and 2017. This includes major improvements for consumers in Europe, not least that consumers now have a right to receive updates, such as security updates, when they buy connected consumer goods, and that they also have better rights as far as digital elements of goods are concerned, such as with regard to embedded software, a user account in the cloud, or a control app on the consumer's smartphone.

## What are your personal memories of the project?

LJT: It was ELI's first major project. It brought together practising lawyers, academic lawyers and judges to show what could be done together; this was best demonstrated when the text was projected onto the screen and we could each make suggestions from our own traditions for improvement. The numerous conferences and visits to Brussels were fun, even though very hard work.

CW: I remember the project first met with a degree of scepticism on the part of the European institutions, but we soon managed to gain their trust when they saw that ELI's work was constructive. It became an excellent working relationship, both with the European Commission and the European Parliament.

## What are your recommendations for future projects in this area?

LJT: The goal of providing for Europe (and the world) a single system of law to govern contracts and other transactions must continue. It should underpin the transformation brought about through digitalisation and AI by focusing on overarching principles and not be sidetracked into producing special regimes for the many different types of transaction.



## About the Project Chair

Lord John Thomas was a practicing barrister in England and Wales until 1996, a Judge of the High Court and Court of Appeal of England and Wales (1996–2013) and then Lord Chief Justice of England and Wales (2013–2017). He was President of the European Network of Councils of the Judiciary (ENCJ) (2008–2010). He is President of the Qatar International Court, an active member of the Upper House of the UK Parliament, a practicing commercial arbitrator, chairman of a number of legal committees in London, Chancellor of Aberystwyth University, an Honorary Fellow of Trinity Hall, Cambridge, and a Fellow of the Universities of Bangor, Cardiff and Swansea. He is one of ELI's Founding Members and its current First Vice-President.



## About the Project Co-Reporter

Christiane Wendehorst is Professor of Law at the University of Vienna. She is a member of the American Law Institute, the Academia Europea, the Austrian Academy of Sciences, the International Academy of Comparative Law and several international research groups. Wendehorst is one of the Founding Members of the ELI and its current President. Previously she has served as Treasurer and Vice-President.

# Save the Date

## ELI Decennial Celebration

Please save the date for the ELI Decennial Celebration on 'Building a European Legal Community – 10 years of ELI's Contribution', which will take place online on 1 June 2021 from 16:00–19:35 (CET).

The ELI Decennial Celebration event will provide an opportunity to reflect on ELI's achievements, lessons learned and challenges ahead with distinguished guests.

Participants will have the chance to hear from **Věra Jourová** (Vice-President of the European Commission) who will deliver the keynote speech. Following her intervention, a panel discussion on 'Facing the Current Challenges in Europe – the Role of the Institutions and Civil Society' will feature **Koen Lenaerts** (President of the Court of Justice of the European Union), **Robert Spano** (President of the European Court of Human Rights), **Didier Reynders** (European Commissioner for Justice), **Adrián Vázquez Lázara** (Chair of the European Parliament's Committee on Legal Affairs), and **Margarete von Galen** (President of the Council of Bars and Law Societies of Europe).

During the second panel discussion on 'Faces and Stakeholders behind ELI – Looking Ahead', **Heinz W Engl** (Rector of the University of Vienna), **Bénédicte Fauvarque-Cosson** (Judge at the French Council of State, *Conseil d'Etat*), **Irmgard Griss** (Professor of the University of Graz; President of the Austrian Supreme Court (2007–2011)), **Anna Joubin-Bret** (Secretary of the United Nations Commission on International Trade Law), and **Ádám Tóth** (President of the Council of the Notariats of the European Union) will reflect on ELI's journey.

More information and a detailed programme are included on the [ELI website](#). The invitation to register for the event will follow in due course.

### Confirmed speakers include:



Věra Jourová



Koen Lenaerts



Robert Spano



Didier Reynders



Adrián Vázquez Lázara



Margarete von Galen



Heinz W Engl



Bénédicte Fauvarque-Cosson



Irmgard Griss



Anne Joubin-Bret

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The Decennial Celebration is supported by:

The Commission Representation in Austria



The University of Vienna



The European Union



Ádám Tóth

# Updates on ELI Projects

Below is an overview of ELI Projects-related events that took place in March and April 2021. Please follow the link to read more on these stories.

## Business and Human Rights

### Project Team Meeting

The Project Team convened remotely on 3 March 2021 to discuss the draft consolidated report.

[Read here](#)

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

### Meeting with AC and MCC

The Project Team discussed the project's questionnaire prepared by the Reporters that deals with EU policy questions

[Read here](#)

## AI and Public Administration

### Project Team Meeting

The Project Team convened remotely on 29 March 2021 to discuss the revised draft report.

[Read here](#)

## Business and Human Rights

### Meeting with Advisory Committee and Members Consultative Committee

The Project Team discussed the draft report on 29 March 2021.

[Read here](#)

## AI and Public Administration

### Project Team Meeting

The Project Team met remotely on 23 April 2021 to consider technical issues pertaining to the Model Rules the Team is developing.

[Read here](#)

## ELI-Mount Scopus European Standards of Judicial Independence

### Project Team Meeting

On 28 April 2021, the Project Team met to continue their scrutiny of the current Mount Scopus International Standards of Judicial Independence.

[Read here](#)

## Call to Participate in an MCC

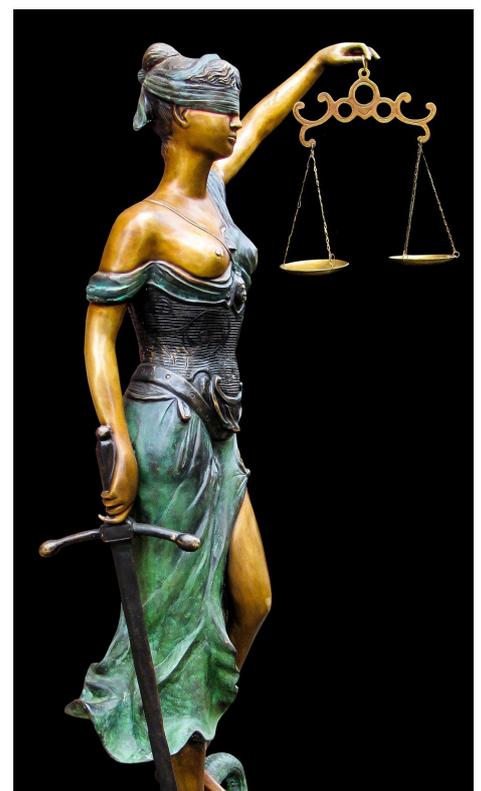
We are pleased to inform you that the ELI Council adopted several new ELI projects at its February meeting and that the Executive Committee established their respective Members Consultative Committees (MCCs). These include projects on Corporate Sustainability, Financial Accounting and Share Capital and on ELI-Mount Scopus European Standards of Judicial Independence.

Interested ELI Members are invited to join the projects' MCCs and, thereby, help to shape their outcome. MCC members will be invit-

ed for comments at various stages of the project, overall offering guidance and insight. The level of involvement in the MCC is not predetermined and, thus, it is for each MCC member to decide how much time to devote to a project.

Typically, Project Reporters will submit drafts to the Members Consultative Committee at least twice per year, ahead of the ELI Council meeting in February and September, and invite it for comments.

You can notify your interest to join an MCC by sending a message to the [ELI Secretariat](#).



# Updates on ELI Hubs and SIGs

Below is an overview of Hub and SIG activities in March and April 2021. Please follow the link to read up on these stories.

## Croatian Hub Launched its Webinar Series

On 5 March 2021, the ELI Croatian Hub held its first webinar in a series of webinars organised to contribute to the discussion on the current ELI projects and recent developments in Croatian, comparative, and EU law.

Read more [here](#).

## Italian Hub Co-Organised a Conference on Taxation and COVID-19

From 12–13 March 2021, the University of Ferrara together with the ELI Italian Hub organised a conference on 'COVID-19 and the Aftermaths on National Tax Systems', which gave speakers from Europe and beyond a chance to compare European taxation strategies with those enacted by countries of the Middle and Far East.

Read more [here](#).

## Italian Hub at the EU Model Torino 2021

The ELI Italian Hub supported the EU Model Torino 2021, which took place from 15–18 March 2021 and was organised by the Turin section of the Students Movement for International Organization (MSOI).

Read more [here](#).

## Insurance Law SIG Organised a Transatlantic Lecture on Insurance Law

On 25 March 2021, the ELI Insurance Law SIG launched its first transatlantic lecture within a series of lectures on insurance law. The first lecture focussed on 'COVID-19 and Business Interruption Insurance'.

Read more [here](#).

## Croatian Hub Held the Second Webinar in its Webinar Series

On 26 March 2021, the ELI Croatian Hub held its second webinar in a series of webinars organised to contribute to the discussion on current ELI projects and recent developments in Croatian, comparative, and EU law.

Read more [here](#).

## Environmental Law SIG Organised an Online Seminar on Nudging

On 8 April, ELI Environmental Law SIG organised an online seminar on Nudging and other behaviorally-based policies as enablers for environmental sustainability. Read more [here](#).

## Italian Hub Supported the BlockchainEdu Conference on Digital Transformation

On 13 April 2021, the Council of the Rome Bar Association and ELI's Institutional Member Blockchain Education Network Italia organized the conference under the patronage of the ELI Italian Hub.

Read more [here](#).

## Austrian Hub Held its First Evening Lecture

On 14 April 2021, the ELI Austrian Hub co-organised, together with the University of Innsbruck, its first Evening Lecture on 'Controlling Power in the Digital Economy' within the Spring Lecture Series.

Read more [here](#).

## Italian Hub Co-Organised a Conference on Legal Liability

On 15 April 2021, the ELI Italian Hub, together with Faculty of Law of the University of Bergamo, the Centre for Medical Law at the Charles University Faculty of Law (Prague, Czech Republic), organised a conference on 'Legal Liability for Allocation of Scarce Resources in Health Care in the COVID-19 Pandemic'.

Read more [here](#).

## Updates on ELI Hubs and SIGs Continued

Below is an overview of Hub and SIG activities in March and April 2021. Please follow the link to read up on these stories.

### Digital Law SIG Organised a Book Talk

On 15 April, ELI Digital Law SIG Organised a Book Talk and discussed the book 'EU Digital Law', edited by Reiner Schulze and Dirk Staudenmayer. Read more [here](#).

### Environmental Law SIG Supported 'Sustainability. Consumption'

On 21 April, ELI Environmental Law SIG supported the organisation of the Online Conference on 'Sustainability. Consumption' which aimed at discussing issues such as the Circular Economy, Consumer Law and Sustainability, Sustainable Consumption of Energy, Water and Food. Read more [here](#).

### Croatian Hub Held the Third Webinar in its Webinar Series

On 23 April 2021, the ELI Croatian Hub held its third webinar in a series of webinars organised to contribute to the discussion on the current ELI projects and recent developments in Croatian, comparative, and EU law. The webinar gathered 30 participants from Croatia, Bosnia and Herzegovina, North Macedonia, and Kosovo. Read more [here](#).

### Environmental Law SIG Co-Organised a Webinar on EU Trade Agreements

On 23 April, ELI's Environmental Law SIG together with the Association for Environmental Law (Vereniging Voor Milieurecht) organised a webinar on 'CETA and its investor-state dispute settlement system: blessing or threat to sustainable development'. Read more [here](#).

### Austrian Hub Held its Evening Lecture in Mergers

On 28 April 2021, the ELI Austrian Hub co-organised, together with the University of Innsbruck, its second Evening Lecture on 'Mergers and Merger Control in Digital Markets'. Read more [here](#).

### Environmental Law SIG Organised a Seminar on 'Greening' of E-Commerce

On 29 April, ELI Environmental Law SIG organised a Seminar on 'Greening' of E-commerce. Read more [here](#).

### Environmental Law SIG Supported the Online Conference on the EU as a Circular Economy: Command & Control?

On 30 April, ELI Environmental Law SIG supported the Online Conference on the EU as a Circular Economy: Command & Control? Read more [here](#).



# Call for an ELI Innovation Paper

**ELI is delighted to announce a new ELI Innovation Paper Call, which offers ELI Members an opportunity to propose pioneering legal or multidisciplinary ideas that would deserve the attention of the European legal community and aim at improving European law.**

## 1. Background

The aim of the new European Law Institute (ELI) Innovation Paper Series is to enable ELI Members to propose pioneering legal or multidisciplinary ideas, which would deserve the attention of the European legal community and aim at improving European law. The Innovation Papers contain concrete proposals for relevant stakeholders and may resemble ELI project output (such as draft legislation, model rules, principles, checklists or position papers - more information about ELI projects is available [here](#)), but be shorter (usually not more than 10 pages) and more tentative in nature. It is not necessary that Innovation Papers are the result of comprehensive research, but they should possibly serve as an inspiration to other stakeholders and be a catalyst for discussion. Innovation Papers may be followed by an ELI project.

After publishing a successful pilot Innovation Paper entitled '[Guiding Principles for Updating the EU Product Liability Directive for the Digital Age](#)' in January 2021, the Institute wishes to invite interested authors to submit their ideas for a second Innovation Paper, which will be published and promoted by ELI. It will also serve as a basis to further fine-tune the call procedure.

## 2. Applicants

All ELI Members (Individual Members or individuals working for ELI's Institutional Members), or small teams of ELI Members (up to five persons), can participate in the call. In case of interested authors who are yet to become ELI Members, their submission would be considered upon indication of a pending membership application.

Where queries concerning eligibility arise, the decision of the ELI Executive Committee is final.

## 3. Submission

Applicants are invited to submit an idea for the next ELI Innovation Paper (not exceeding 2,000 words) on a topic of their choice, briefly explaining how the Innovation Paper would contribute to an innovative development of European law as well as defining the proposed type of outcome of the Innovation Paper. The idea should be accompanied by a brief executive summary (not exceeding 500 words). The submission should be provided in English.

Please use the submission template available [here](#) for this purpose.

## 4. Deadline for Submission

Applicants are invited to send their submission to the ELI Secretariat ([secretariat@europeanlawinstitute.eu](mailto:secretariat@europeanlawinstitute.eu)) by 23 May 2021.

## 5. Procedure

The ELI Executive Committee will review the submissions on a rolling basis and select the most promising idea by 6 June 2021. The proposer(s) of the selected idea will be asked to prepare an ELI Innovation Paper within one to two months. They will receive further guidance as to the style of the Innovation Paper from the ELI Secretariat. The Executive Committee may also suggest modifications to the idea prior to it being adopted to proceed as an ELI Innovation Paper, or may suggest to the proposers of two or more ideas to join forces and combine their ideas within a defined period, if those proposers agree.

The Innovation Paper would be then consulted upon with ELI Members

for a period of one month, thereby guaranteeing a broad input and support by the European legal community. The author(s) would be invited to consider the comments and revise the Innovation Paper in light of them. An ad hoc online Council meeting will be organised two weeks after the consultation period to discuss the draft paper and possible modifications with the author(s). The author(s) would then have two more weeks to finalise the Innovation Paper in light of comments received. Afterwards, the Innovation Paper would be forwarded to the ELI Council for endorsement or rejection and, if endorsed, published and promoted by ELI. The author would assign to ELI the necessary exclusive intellectual property rights to that end.

The decision to select an idea for an Innovation Paper and invite its author to prepare such a Paper or not to select any idea for an Innovation Paper is at the discretion of the ELI Executive Committee.

[Submission Template](#)

[E-Mail ELI Secretariat](#)



# ELI Webinar on 'Regulating AI: A First Analysis of the European Commission's Proposal'

**On 29 April 2021, ELI hosted a webinar on the European Commission's Proposal for a Regulation laying down harmonised rules on artificial intelligence, published in the framework of its AI package on 21 April 2021. The event gathered over 200 participants eager to hear from, and discuss with, experts in this fascinating and fast developing field.**

The webinar provided an opportunity to analyse the Commission's Proposal and its importance for ELI's work in the field, in particular its project on AI and Public Administration – Developing Impact Assessments and Public Participation for Digital Democracy, building on the response to the European Commission's public consultation on the White Paper 'On Artificial Intelligence'.

Pascal Pichonnaz (Chair; Professor, University of Fribourg; ELI Vice-President) briefly presented the background of the Commission's Proposal.

Gabriele Mazzini (Legal and Policy Officer; Unit on Artificial Intelligence Policy Development and Coordination, Directorate-General for Communications Networks, Content and Technology, European Commission) presented key aspects of the Proposal, emphasising in particular the risk based approach chosen to regulate AI.

Christiane Wendehorst (Professor, University of Vienna, European

Reporter of the project 'ALI-ELI Principles for a Data Economy') provided a preliminary analysis of the Proposal against the background of Part 3 ('Regulating private use of AI') of the ELI's 2020 response to the public consultation, which she had co-authored together with Jens-Peter Schneider, Marc Clément and Paul Craig. She welcomed the fact that so many points stressed in the ELI's response had been taken up by the Proposal, such as the risk-based approach, the link with safety legislation, and the prohibition of certain blacklisted AI practices.

Jens-Peter Schneider (Professor, University of Freiburg; Co-Reporter of the ELI project on AI and Public Administration; Co-Author of the response to the public consultation) provided a brief assessment of the proposal as well as its importance for ELI's work, and referred to part two of the response to the public consultation (ie 'Regulating public use of AI applications').

Marc Clément (Presiding judge at the Administrative Court of Lyon;

Co-Reporter of the ELI project on AI and Public Administration; Co-Author of the response to the public consultation) focused on the broader significance of the proposal for ELI's project on AI and Public Administration. Among other aspects, he discussed the importance of public participation in the context of public administration AI systems, as high risk systems may require public debate before adoption by administration.

Susana Navas Navarro (Professor, Autonomous University of Barcelona) discussed in her presentation high value/quality data for AI and innovation. She emphasised that the quality of the data sets is essential to avoid discriminatory biases, in particular in case of machine learning systems.

During the Q&A session, participants raised several important questions, dealing with issues such as the flow of personal data used to create AI, a liability regime for AI and the interaction of the proposed Regulation with cybersecurity rules.

[Watch the Webinar](#)



# ELI Welcomes its New Members

ELI is pleased to share information about its individual and institutional Members.

## Sustaining Members:

The following Member has joined as, or changed their Membership to that of a Sustaining Member, who pay an additional 60 EUR per year to support the ELI's work:

**Hugo Maria Schally**, European Commission, Belgium

## Suleyman Demirel University

Suleyman Demirel University (SDU) is one of the first private higher education institutions in Kazakhstan. The University was founded in 1996 and opened by the President of the country Nursultan Nazarbayev. SDU currently has four faculties: Education & Humanities, Engineering & Natural Sciences, Law & Social Sciences, and the Business School. SDU operates a trilingual education system whereby 81% of its degree programs are taught in English, 16% in Kazakh, and 3% in Russian.



SULEYMAN DEMIREL  
UNIVERSITY



## New Individual Members:

**Henrik Andersen**, CBS Law, Denmark

**Lorena Bachmaier Winter**, Complutense University Madrid, Spain

**William Boyd**, University of California, Los Angeles, United States of America

**Wolfram Buchwitz**, Julius Maximilian University of Würzburg, Germany

**Alina Raluca Cucu**, Lawyer, Romania

**Jacques de Werra**, University of Geneva, Switzerland

**Natalia Golota**, Vinnytsia Institute of Economics and Social Sciences, Ukraine

**Hao Jiang**, Bocconi University, Italy

**Nicolas Kuonen**, University of Fribourg & Tavernier Tschanz, Switzerland

**Viacheslav Puzyrnyi**, Chernihiv National University of Technology, Ukraine

**Agustin Reyna**, The European Consumer Organisation (BEUC), Belgium

**Claudia Sandei**, University of Padova, Italy

**Hugo Maria Schally**, European Commission, Belgium

**Michele Siri**, University of Genoa, Italy

**Yevhen Sobol**, Volodymyr Vynnychenko Central Ukrainian State Pedagogical University, Ukraine

# 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.

## May

**12 May**  
**12:55**  
**(CET)**      **ELI Belgio-Luxembourg Hub: Cybersecurity 102**  
*Online*

**14 May**  
**17:00**  
**(CET)**      **ELI Environmental Law SIG: Access to Justice in Environmental Matters**  
*Online*

**14 May**  
**18:00**  
**(CET)**      **ELI Croatian Hub: Webinar**  
*Online*

**14 May**  
**12:00**  
**(CET)**      **ELI Spanish Hub: VI Annual Meeting on European Case Law**  
*Online*

**19 May**  
**12:55**  
**(CET)**      **ELI Belgio-Luxembourg Hub: Cybersecurity 103**  
*Online*

**19 May**  
**18:00**  
**(CET)**      **ELI Austrian Hub: Essential Platforms**  
*Online*

**25 May**      **AI and Public Administration Project Team Meeting**  
*Online*

**27 May**  
**18:00**  
**(CET)**      **ELI Insurance Law SIG: Transatlantic Lecture**  
*Online*

## June

**1 June**  
**16:00**  
**(CET)**      **ELI Decennial Celebration**  
*Online*

**8 June**  
**18:30**  
**(CET)**      **ELI Webinar on Model Rules for Online Platforms**  
*Online*

## June

**9 June**  
**18:30**  
**(CET)**      **ELI Austrian Hub: The Digital Markets Act – a game changer?**  
*Online*

**10 June**  
**17:00**  
**(CET)**      **ELI Environmental Law SIG: Pathways to Sustainable Banking: Values and Legal Instruments**  
*Online*

**17 June**      **Access to Digital Assets Project Team Meeting with Advisory Committee and MCC**  
*Online*

**22 June**  
**18:30**  
**(CET)**      **ELI Webinar on Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law**  
*Online*

**29 June**      **AI and Public Administration Project Team Meeting with Advisory Committee**  
*Online*

**30 June**      **ELI Italian Hub: General Meeting**  
*Online*

## July

**5 July**      **ELI Council Meeting (ELI Council members only)**  
*Online*

**6 July**  
**18:30**  
**(CET)**      **ELI Webinar on Rescue of Business in Insolvency Law**  
*Online*

**20 July**  
**18:30**  
**(CET)**      **ELI Webinar on Model European Rules of Civil Procedure**  
*Online*

# Politico's AI Summit

**ELI is proud to support as a partner the 4th edition of Politico's Artificial Intelligence (AI) Summit, which will gather top regulators, tech leaders, startups innovators, and civil society representatives to debate the future of AI in Europe and beyond. The Summit will take place on 31 May 2021, 8:30–18:30 (CET).**

The European Commission will soon introduce legislation to govern the use of AI, acting on its aim to draw up rules for the technology sector over the next five years and on its legacy as the world's leading regulator of digital privacy. At the heart of the issue is the will to balance the need for rules with the desire to boost innovation, allowing the old continent to assert its digital sovereignty. On where the needle should be, opinions are divided – and the publication of the Commission's draft proposal will

not be the end of the discussion. But how will such rules fit in with broader plans to build European tech platforms that will compete globally with other regions? How will new requirements on algorithmic transparency come across to regular people? What kind of implementation effort will this require from startups, mid-size companies and big tech?

During the course of 14 panel discussions, interviews, and roundtable discussions these questions and many

more will be answered. The confirmed speakers include: Věra Jourová (Vice President of the European Commission for Values and Transparency), Didier Reynders (Commissioner of Justice and Consumers), Bruno Gencairelli (Directorate General for Justice and Consumers, David Van Weel (North Atlantic Treaty Organization), several MEPs and many more. The full programme is available [here](#).

Should you wish to attend the event, please register by filling out [this](#) form.



# 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

## ELI Annual Conference 2021

6–8 September (Online)



## 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.



### ELI Secretariat

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