



ELI
EUROPEAN
LAW
INSTITUTE

Newsletter

Bringing Legal Experts Together



Cover contribution by Pascal Pichonnaz, President of the European Law Institute (ELI)

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Connect



Spotlight contribution by Alex Agius Saliba, Member of the European Parliament (MEP) and EP Rapporteur on the Right to Disconnect

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Imprint

Media Owner & Editor: ELI
Schottenring 16/175, 1010 Vienna, Austria

Cover by Pascal Pichonnaz

ELI President

ELI's Annual Conferences are wonderful opportunities to exchange with colleagues, ELI members and friends from across Europe, and beyond, about the various developments made in ELI's projects and activities. They are both stimulating and very enriching.

This year's Annual Conference in Vienna (6–8 September 2023), hosted by the University of Vienna and opened by its representatives, confirmed previous experiences. The high-level keynote speakers, European Commission Vice-President Jourovà and Vice-President Šuica, the Austrian Minister of Justice, Dr Alma Zadić, LL.M., and many other high-level members of the European Commission, expressed how intense and important our exchanges with them are.

One thing is to contribute to legislative processes, another is to take stock of judicial experiences in the elaboration of our project reports. Needless to say, we were therefore very fortunate to have secured Judge Marko Bošnjak, Vice-President of the European Court of Human

Rights, on our panel on Fundamental Constitutional Principles, and Judge Savvas Papasavvas, Vice-President of the General Court of the EU and a Founding Member of ELI, to remind us just how far the Institute has come since its establishment. Many national Supreme Court judges enhanced the quality of panel discussions.

Vienna was also a great opportunity to have practitioners and representatives of European and international organisations contribute to our panels, as experts or stakeholders. On the occasion, the fifth Ole Lando Memorial Lecturer, delivered by Deputy-Secretary General of UNIDROIT Prof Dr Anna Veneziano, underlined the challenges of law-making at international level. I had the impression that the forum for discussion and cooperation by a community of jurists in Europe that the ELI seeks to foster was a true reality.

At the end of my first term as President, I believe that the numerous exchanges I had with our Institutional Members helped to get a sense of the needs of our Members in their specific

competencies and how cooperation can be enhanced. The Executive Committee has worked hard with the ELI Council, the Secretary General, the Scientific Director and the ELI Secretariat to bring forward new projects, to expand knowledge about ELI and its outputs, as well as to increase awareness of ELI's activities, including thorough numerous webinars. My deepest thanks go therefore to all the persons who have invested their time and efforts to making all these developments happen.

Among many others, let me thank Lord John Thomas, outgoing 1st Vice-President, and a longstanding member of our Executive Committee and Council for his hard work and his accomplishments in ELI.

Thanks also go to Judge Bénédicte Fauvarque-Cosson, who spent two years in the Executive Committee, but had to renounce the possibility of renewing her tenure, given her new position as *administratrice générale* of the Conservatory of Arts and Crafts (CNAM) in France.

The Author

Pascal Pichonnaz is currently Professor (since 2000) for Swiss contract law, Roman law, as well as European consumer law and comparative contract law at the Faculty of Law of the University of Fribourg. Pichonnaz was Dean of the Faculty of Law (from 2014–2017) and published several books on various aspects of contract law (Swiss and comparative law), Roman law, as well as unfair competition and family law. Pichonnaz is also a member of several boards of legal periodicals. He is a standing member of the Jury of the *Premio internazionale di diritto romano Gérard Boulvert* and is active as an international commercial arbitrator (ICC, Swiss Rules-SCAI, ad hoc). He has been member of the board and subsequently President (between 2008–2009) of the European Law Faculties Association (ELFA). He is also currently Chair of the Swiss Federal Commission for Consumers.



Anne Birgitte Gammeljord, 2nd Vice-President, was elected 1st Vice-President in February 2023 and took office in September 2023; she will therefore continue to work intensely for the ELI, which is very fortunate for us all. Pietro Sirena, our Treasure, also re-elected on the occasion, will continue in this position. Prof Dr Teresa Rodrigues de las Herras Ballel and Dr Aneta Wiewiórowska-Domagalska, who were both very active in the last two years, were re-elected to the Executive in September 2023 by the newly composed ELI Council.

With Sir Geoffrey Vos, Master of the Rolls and Head of Civil Justice in England and Wales, who was elected 2nd Vice-President in February 2023 but took office in September, as did Judge Sylvaine Peruzzetto-Poillot

of the *Cour de Cassation* in France, we have two new members of the Executive for a period of two years, who will bring in a deep experience in activities in international organisations, but also the judges' perspective to the heart of ELI.

The Scientific Director, Prof Dr Christiane Wendehorst, and the Secretary General, Dr Vanessa Wilcox, and her team, have been pivotal to the functioning of ELI in the last two years, both with respect to projects, and the overall functioning of ELI. My deepest gratitude goes to them all, as well as to the Chairs of ELI Hubs and Special Interest Groups (SIGs) who work tirelessly to make ELI and its work known and to enhance Membership benefits. Together with the newly elected members of the Council, ELI seems in very good shape

to address the numerous challenges of our times.

As President for a second two-year mandate, until September 2025, I very much look forward to continuing to develop strategies and activities that will ensure that the community of jurists in Europe has a voice and an impact on legislative processes, but also to seeing to it that ELI brings the best and most developed ideas and proposals to the table of discussions and reflexions in Europe. It is therefore with great enthusiasm, but also with renewed vigour, thanks to the 2023 Annual Conference, that we will all work during the next two years for ELI and for the benefit of the law in Europe.



On the Right to Disconnect

By Alex Agius Saliba, Member of the European Parliament

Today we live in an always-connected world. The practice of remote working through digital tools, intensified through the coronavirus lockdown measures, has drawn increasing attention to the issues of constant connectivity and the blurring of boundaries between working and non-working time.

Undoubtedly, digitisation and digital tools have brought many new opportunities, both in our personal lives and in our work. However, at the same time, they have created new challenges, testing the limits of our legal systems and policy framework and creating a new phenomena of always being 'over-connected' and 'always-on' putting high pressure on workers to be available online, long after the working day or week has ended, leading to greater workload and longer or unpredictable working hours.

The pandemic has fundamentally changed the way we work and accelerated a new digital trend that challenges existing working models and patterns, including national systems and the fundamental rights

of workers. During the pandemic, one in three workers started working from home and many companies, such as Twitter, Facebook, Shopify, publicly announced a long-term shift to permanent telework while claiming that office centrality is part of the past. Surveys show that 80% of European employers require or are considering to require more employees to work remotely once the pandemic is over. The future of work is here, and post-pandemic, more hybrid working patterns are likely to emerge with higher levels of take-up of remote working than before the COVID-19 crisis.

That is why we will need to pay close attention to any possible risks, drawbacks, and harmful side effects of digitalisation and telework on workers' rights and working conditions, such as intensified work and extended working hours.

The constant pressure on workers to always be reachable and available at any time could often be aggravated if organisational culture at work further incentivises employees to accept heavy workloads and put

in overtime, often unpaid. This could have a detrimental effect on workers' fundamental rights and their physical and mental health and well-being, fair working conditions, fair remuneration, working time and work-life balance, health and safety at work, and the equality between men and women. The excessive use of technological devices can further aggravate phenomena such as isolation, anxiety, depression, burnout, techno-addiction, sleep disorders and musculoskeletal disorders.

In the context of the digital transformation in the world of work, the European Parliament's Employment and Social Affairs Committee has adopted a legislative-initiative report calling on the Commission to propose an EU directive that lays down minimum requirements for the right to disconnect. Parliament voted on this legislative initiative during its January 2021 plenary session. The report, for which I was a rapporteur, calls on the European Commission to adopt a legislative proposal for a directive on the right to disconnect. In this context, Parliament considers

The Author

Alex Agius Saliba was elected as a Member of the European Parliament in 2019 on behalf of the Labour Party. He is a graduated lawyer. Before joining the Parliament, he worked as a legal advisor to a number of Ministers. After being elected to the European Parliament, Alex Agius Saliba served on the Committee on the Internal Market and Consumer Protection, the Committee on Petitions as Coordinator, the Committee on Employment and Social Affairs and the Committee on Industry, Research and Energy. In addition to his committee assignments, he is member of several Parliament's delegations. Among other charges, Agius Saliba was appointed as rapporteur on the Right to Disconnect by the Employment Committee.



the right to disconnect to be a fundamental right that is an integral part of new working patterns in the new digital age. This right should be seen as an important social policy instrument at EU level to ensure the protection of workers' rights.

The report sets minimum requirements on the use of digital tools for professional purposes outside working hours, which over time aim at creating a culture that avoids out-of-hours contact. It emphasises the important role of social partners in implementing the right to disconnect and of the need for tailor-made solutions meeting companies' specific needs and constraints.

There is currently no European legal framework directly defining and regulating the right to disconnect. The Working Time Directive refers to a number of rights that indirectly relate to similar issues. In addition, Principle 10 of the European Pillar of Social Rights calls for a healthy, safe and

well-adapted work environment, and for data protection, while Principle 9 for work-life balance. Many Member States have already started looking at the concept of the right to disconnect and some have already legislated on it.

There is no doubt that the current rules in Europe need updating to ensure a proper legal framework that is fit for the new digital realities and to ensure that digitalisation is not negatively affecting employment conditions and workers' health and safety; a legislative framework that aims at establishing minimum requirements for the right to disconnect so that workers will be able to switch off their digital devices after work without facing negative consequences for not responding to work communications; and at the same time, a legal framework to ensure that employers cannot require or pressure workers to be directly or indirectly available or reachable outside their working time. The new working patterns should be used as an asset that benefits both

employers and workers, mitigating their adverse effects on workers' rights. It is fundamental, therefore, to protect workers from the adverse effects of digitalisation. That is why we need the right to disconnect to become a fundamental right so that we can defend workers from 'digital obesity' and define workers' rights in this new digital reality.

The right to disconnect must respect working time trends and ensure the wellbeing of all workers whether they are at home with their family in the evening, on leave, or on holiday or during teleworking. The right to disconnect and a proper legal framework for telework should be seen as essential social policy instruments to protect workers' rights and decent working conditions in the future of work post-COVID 19.

ELI's recently published Guiding Principles on Implementing Workers' Right to Disconnect, (see page 10 below), are therefore timely and pivotal to the above efforts.



Updates on 2023 ELI Annual Conference

ELI is pleased to have registered over 350 participants for its 2023 Annual Conference, which took place from 6–8 September 2023 at the Main Building of the University of Vienna. The event gathered legal experts from across Europe and beyond. It marked yet another occasion to showcase some of ELI’s current projects as well as to the work of some of ELI’s Hubs and SIGs, and to contribute to their development.

Speeches and Panels

In the course of three fruitful days, participants listened to several speeches, at the event opened by the Vice-Rector of the University of Vienna, Ronald Maier, and the Dean of its Law Faculty, Brigitta Zöchling-Jud (see page 2).

Panels were held on ELI’s projects on Fundamental Constitutional Principles, Guiding Principles and Model Rules on Fundamental Constitutional Principles, Guiding Principles and Model Rules on Algorithmic Contracts, ELI-Mount Scopus European Standards of Judicial Independence, Third Party Funding of Litigation, Guiding Principles on Implementing Workers’ Rights to Disconnect, as well as Access to Digital Assets. [More here.](#)

Fifth Ole Lando Memorial Lecture

On the occasion, Deputy-Secretary General of the International Institute for the Unification of Private Law (UNIDROIT), delivered the highly enlightening Fifth Ole Lando Memorial Lecture on ‘Developing Uniform Laws in Private and Commercial Law: Some Lessons Learned, and a Look Ahead’. [More here.](#)

Council Elections

28 New Council Members were elected to office during the 2023 ELI Annual Conference. Their names were revealed by Returning Officer, Prof Dr Reinhard Zimmermann on 7 September and can be found on the right. [More here.](#)

ELI’s Newly Elected Executive Committee



To left to right, top to bottom: Prof Dr Pascal Pichonnaz (ELI President), Anne Birgitte Gammeljord (First Vice-President), Sir Geoffrey Vos (Second Vice-President), Prof Dr Pietro Sirena (Treasurer). On the extreme right: Prof Dr Teresa Rodríguez de las Heras Ballell, Dr Aneta Wiewiórowska-Domagalska and Sylvaine Poillot Peruzzetto.

ELI’s Newly Composed Council

Despoina Anagnostopoulou
 Susanne Augenhöfer
 Lorena Bachmaier Winter
 Ewa Bagińska
 Başak Başoğlu
 Hugh Beale
 Sarah Bechaalany
 Teresa Bielska-Sobkowicz
 Robert Bray
 Christoph Busch
 Valentina Calderai
 Michel Cannarsa
 Georges Cavalier
 Sara Cockerill
 Mario Comba
 Paul Craig QC (Hon)
 Nada Dollani
 Christiana Fountoulakis
 Hristina Georgieva
 Miguel Gimeno-Ribes
 Gianluca Grasso
 Laura Guercio
 Geraint Howells
 André Janssen
 Francisco Javier Jiménez Muñoz
 Paul Keane
 Bernhard A Koch
 Xandra Kramer
 María Lubomira Kubica

Matthias Lehmann
 Piotr Machnikowski
 Oliver Mader
 Maria Rosaria Maugeri
 Svitlana Mazepa
 William Martin McKechnie
 Matthias Neumayr
 Francesco Paolo Patti
 Fausto Pocar
 Sylvaine Poillot Peruzzetto
 Barbara Pozzo
 Ilaria Pretelli
 Teresa Rodríguez de las Heras Ballell
 Albert Ruda
 Marta Santos Silva
 Jens Scherpe
 Ulrich Schroeter
 Hans Schulte-Nölke
 Andrey Shirvindt
 Anna Skrabina
 Tamás Szabados
 Camelia Toader
 Ivan Tot
 Laura Valle
 Aneta Wiewiórowska-Domagalska
 Aleš Zalar

2023 ELI Hub and SIG of the Year Awards

For the fourth time since the launch of the above awards, prizes were given in recognition of the contributions Hubs and SIGs make to ELI. The winners of the 2023 awards, announced on 6 September 2023, in the context of the Annual Conference, were the Austrian Hub, the Croatian Hub and the Digital Law SIG.

The Austrian Hub

The Austrian Hub is chaired Susanne Augenhofer (Professor, University of Innsbruck), Walter Doralt (Professor, University of Graz) and Christian Koller (Professor, University of Vienna). In the preceding year, the Hub organised several webinars focusing on various topics including contract law and dispute resolution. The Hub has won the award for the second time in a row.



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AUSTRIAN HUB

The Croatian Hub

The Croatian Hub is chaired by Zoran Hačić (Attorney at Law/Managing Partner, Hačić & Bošnjak Law Firm, Zagreb), Emilia Mišćenić (Associate Professor at the Chair of International and European Private Law, Faculty of Law of the University of Rijeka), Hrvoje Pauković (Managing Director of the Insurance Association of Croatia) and Ivan Tot (Assistant Professor at the University of Zagreb, Faculty of Economics and Business, Department of Law). It held a series of well-attended monthly webinars, targeted at the wider Croatian legal community. The Hub has won the award for the third time in a row.



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CROATIAN HUB

The Digital Law SIG

The Digital Law SIG is chaired by Alberto De Franceschi (Full Professor of Private Law, Chair of Private Law, Intellectual Property Rights and Environmental Law, Department of Economics and Management, University of Ferrara) and Christoph Busch (Full Professor of Law and the Director of the European Legal Studies Institute, University of Osnabrück). The SIG held a number of successful seminars. It has also won this award for the third time.



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DIGITAL LAW SIG

2023 ELI Young Lawyers Award Winning Paper by Yulia Sergeeva

The ELI Young Lawyers Award was officially launched at the 2016 Annual Conference and General Assembly. The goal of the award is to provide the young legal community in Europe with a mechanism to propose practical suggestions for the improvement of European law, as a way of giving voice to future European legal experts and helping ELI in fulfilling its core mission of improving the quality of law in Europe. This year's award was given to Sergeeva on 6 September 2023, in the context of the 2023 AC.

The European Union (EU) and its citizens are now in the midst of an unprecedented energy crisis, with energy independence and the accelerated green transition being the central tasks of EU energy policy. To tackle them, we have to spotlight a commonly overlooked concept of energy communities. An energy community can be understood as a legal entity of a specific kind, most commonly a cooperative, which is established by residents for the operation of a renewable energy project – for instance, the installation of solar panels, with a view to sharing the electricity produced. Such collective initiatives have great potential by promoting the decentralised production of energy that is both clean and affordable. However, to properly support the development of energy communities in Member States, the EU has to provide a more detailed regulatory framework.

To begin with, there are several particular benefits that energy communities are likely to bring. First,

research has demonstrated that the collective ownership of energy is likely to lead to the uptake of clean energy technologies by increasing public acceptance of renewable sources. Second, energy communities – a concept underpinned by the idea of energy democracy – could significantly reduce energy poverty throughout the EU, becoming an important tool for a just energy transition. Third, collective energy initiatives are likely to nudge people towards sustainable living even beyond the domain of energy, also facilitating strong public and social engagement in climate action.

To unlock the demonstrated potential, however, national legislators need clearer guidance in the form of elaborate rules from the EU. While the concept of energy communities has recently been introduced into EU legislation in the Renewable Energy Directive (RED) and the Internal Electricity Market Directive (IEMD), the existing rules are not adequate to enable the effective uptake of energy communities.

The most common concern is that Member States lack appropriate expertise because of the novelty of the legal concept. Additionally, a wide margin of appreciation in the existing Directives leads to diverging national measures being adopted, which brings further complications. Finally, not all Member States are equally committed to the idea of green transition as such and the development of energy communities in particular, so more stringent rules are needed from the EU.

Thus, the EU has to take a strong lead in the development of European energy communities and provide a significantly more elaborate legal framework in the very near future. To offer potential solutions, such a framework could materialise as either an actual Regulation or at least detailed guidelines on the implementation of the rules in the existing Directives. The green energy transition is no longer a question of initiative but of necessity – while collective, citizen-driven energy actions are part of the answer.

The Author

Yulia Sergeeva is a third-year LLB student at the University of Groningen, the Netherlands, and a junior legal adviser at Ocean Grazer BV. In her paper, she draws attention to the concept of energy communities and suggests that the current legal framework governing the EU energy sector is insufficient for the realisation of their true potential. The full version can be read in a forthcoming edition of International Institute for the Unification of Private Law's (UNIDROIT) Uniform Law Review.



Updates on ELI Representation

Below is an overview of representational activities that took place in September and October 2023.



EUROPEAN COURT OF HUMAN RIGHTS

ELI Presidency Exchanges Views with President of the European Court of Human Rights.

10 October 2023

The ELI President, Prof Dr Pascal Pichonnaz, ELI's First Vice-President, Anne Birgitte Gammeljord, its Second Vice-President, Sir Geoffrey Vos, Former First Vice-President, Lord John Thomas, and Secretary General, Dr Vanessa Wilcox met President O'Leary of the Strasbourg Court to explore avenues for cooperation. More [here](#).



ELI President Meets President of the World Jurist Association

20 September 2023

The Meeting took place remotely and was an opportunity to reflect on the parties' fruitful collaboration in the 2023 World Law Congress in New York and on how to intensify cooperation going forward. The President was joined by ELI Secretary General Dr Vanessa Wilcox. More [here](#).



United Nations
UNCITRAL

ELI President Participates in UNCITRAL Working Group II 78th Session

18–22 September 2023

The President attended parts of the above session in a bid to intensify relations between ELI and UNCITRAL, one of ELI's Institutional Members. He was joined by ELI Executive Committee Member Prof Dr Teresa Rodríguez de las Heras Ballell. More [here](#).



ELI's E-Evidence Proposal Garner Interest from China

30 October 2023

Lorena Bachmaier Winter, Co-Reporter of the ELI Proposal for a Directive on Mutual Admissibility of Evidence and Electronic Evidence in Criminal Proceedings, gave a presentation on ELI's Proposal to a Chinese delegation from China. The delegation visited the ELI Secretariat as part of a visit to various organisations in Austria. More [here](#).

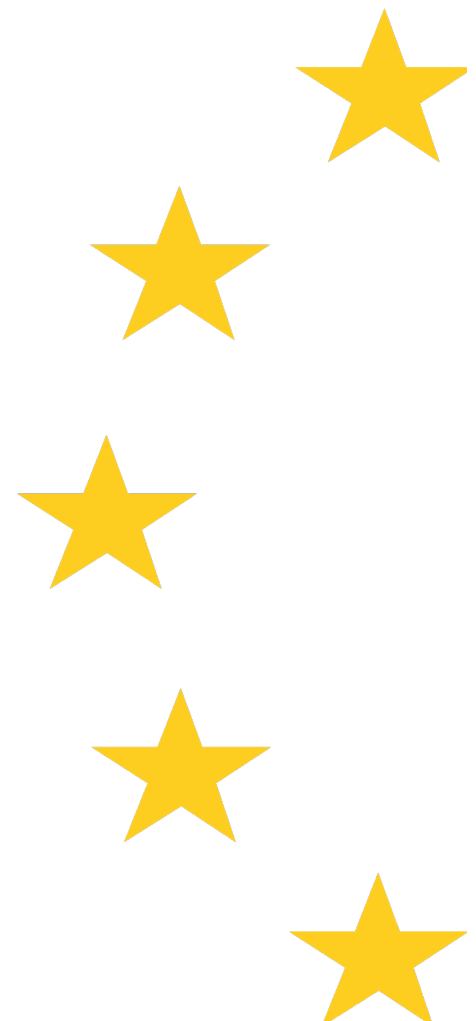


ELI President Meets Richard Sonnenschein, Director of Directorate for Criminal and Civil Justice

30 September 2023

The pair were joined by ELI's Secretary General, Dr Vanessa Wilcox, and Petra Untersulzner, Legal and Policy Officer at DG JUST.

The meeting was an occasion to exchange updates and explore avenues for cooperation. More [here](#).



Updates on ELI Projects

Guiding Principles on Implementing Workers' Right to Disconnect are available online.

On 6 September 2023, the ELI Council approved the Final Draft of ELI Guiding Principles on Implementing Workers' Right to Disconnect.

ELI's ten Guiding Principles aim at supporting legislators and social partners at striking a balance between the conflicting rights of employers and employees, at a time of increasing use of digital and technological tools. At the core of the Principles is a desire to protect the physical and mental health of all workers, by guaranteeing resting time and improving the predictability of working schedules.

The growing use of digital and technological tools over the last few decades has made it possible to work anywhere and at anytime. The Covid-19 pandemic increased the pace of this development. Whereas the digitalisation of work and the expansion of telework present potential advantages in terms of flexibility, productivity and conciliation, these trends can also result in an intensification of work, long working hours, the blurring of limits between work and rest time or increased stress arising from continuous surveillance and monitoring of performance and productivity.

These factors can, in turn, negatively affect the physical and psychological health of employees. Respect for working and rest time is a key factor in preventing burnout and in enabling unpaid caregivers, the majority of whom are women, to balance private and professional responsibilities.

It seems therefore necessary to regulate some aspects of the new digital work environment, with the aim of offsetting at least some of the negative impacts deriving from the frequent use of digital work tools. It is in this context that the right to disconnect (R2D) becomes relevant.

ELI's ten Guiding Principles propose a regulatory foundation for the R2D in Europe. These cover aspects that ought to be considered when drawing up standards, to ensure a balanced regulation of the R2D. The ELI project was chaired by Italian Constitutional Court Judge Silvana Sciarra and led by Co-Reporters Prof Dr Karine Lempen and Prof Dr Luca Ratti.

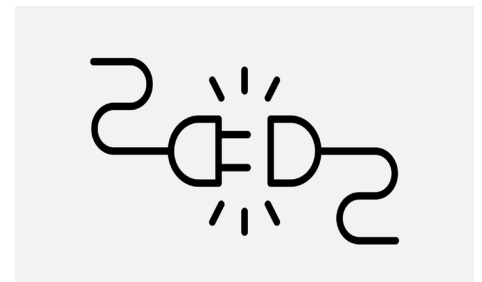
The Guiding Principles, which are aimed at all European legal systems, are purposely broad in scope. Insofar as the problem of excessive connectivity extends throughout Europe, it seemed restrictive to limit the analysis to the EU.

Both national legislation and EU law and policy documents were important sources of inspiration. The debates that took place during the drafting process highlight the particular concomitant difficulties with a regulation on the R2D in Europe. Particularly challenging is the level at which the rules on disconnection should be applied, and the people they should target. Subsidiarity, the articulation of sources and scope were, therefore, key aspects to consider.

The Guiding Principles are the result of collective reflection and discussions, which led to certain proposals and choices. The overall aim is to reconcile the interests of all parties and, in particular, the imperatives of protection and flexibility, while guaranteeing a broad application of the R2D to all those in need of it.

The ELI Guiding Principles are available [here](#). A webinar on the topic will take place on 13 November 2023 from 13:00 to 14:30 CET. Further details to follow.

The project's Co-Reporters are available for questions. For more information and press inquiries, kindly contact the [ELI Secretariat](#).



ELI's Fundamental Constitutional Principles Presented to the European Commission

Reporters of ELI's Project on Fundamental Constitutional Principles, Prof Dr Elise Muir and Prof Dr Takis Tridimas, presented the Principles to the members of the Rule of Law Unit of the European Commission's Directorate-General for Justice and Consumers.

The presentation took place on 4 October 2023 and was opened and chaired by ELI's former First Vice-President, Lord John Thomas, who acts as one of the Assessors of the project. It was attended by Marie-Helene Boulanger, Acting Director of the Rule of Law, Fundamental Rights and Democracy Unit (JUST C) and members of the Unit, Heini Huotarinen, Srd Kisevic, Cristian Alexandru Leahu, Silvia Lopez-Arnao, Harry Panagopulos, and Pierre Rabourdin.

At the presentation, Prof Dr Tridimas explained the project's methodology and provided an overview of the Principles. He also delved into some of the Principles in detail. Prof Dr Muir described the structure of the Principles and discussed their sources. This was followed by a discussion with participants, who emphasised the fact that ELI's project is extremely interesting and valuable. A mutual desire to cooperate further on the topic was expressed.

The presentation was organised, on the suggestion of the European Commission, by ELI in the context of a broad consultation process ELI undertook earlier this year to gather feedback on the preliminary output of the project. Internal feedback from the Project Team, Advisors and ELI bodies, as well as external feedback, is being considered by the Reporters, who are in the process of finalising the output, with a view to delivering it to the ELI Council for a vote in November 2023.

ELI is very grateful to Lord John Thomas, Prof Dr Elise Muir and Prof Dr Takis Tridimas for their preparedness to engage with the European Commission and to the members of the Commission for their interest in this project and valuable insights.

More information about the project is available [here](#).



ELI Project Kick-Off Webinar on Enterprise Foundations in Europe

On 27 September 2023, ELI hosted a webinar on its newly adopted project on Enterprise Foundations.

The project, which was adopted by the ELI Council in July 2023, aims at identifying present approaches and solutions to foundation law in different European countries, as well as developing a model enterprise foundation law. The webinar served

as an occasion for the Co-Reporters of ELI's project to outline it and the context out of which it arose, as well as to collect initial feedback from ELI Members and external stakeholders. The recording of the webinar is available [here](#).



ELI Adopts a New Project on Succession of Digital Assets, Data and other Digital Remains

Developed in the context of meetings of the ELI High Level Expert Group on Digital Inheritance, this project was adopted by the ELI Council at its September 2023 meeting.

Succession of Digital Assets, Data and other Digital Remains are increasingly important considerations in succession, estate planning and estate litigation as more people conduct their lives online and accumulate or create valuable digital assets, accounts and data.

The digital estate, also known as digital legacy in theory and common law systems, includes digital assets, personal data of the deceased, and potentially other emerging digital remains (eg, the deceased's avatars in the Metaverse/Extended Reality, their chatbot created using generative AI, etc). In all these cases – assets, personal data and emerging types of digital remains – legal challenges have arisen.

Key challenges include defining and classifying these assets, remains and data; determining who has the legal right to access and manage a person's digital estate after their death; ensuring data security; and protecting the dignity and privacy of the deceased during data transfer to the entitled persons or in another

manner. Succession law and other relevant areas such as privacy and data protection, therefore, need to respond to this evolution.

The Project Team aims at drafting model law/rules to harmonise key provisions on the definition of digital remains, access and inheritability, and data protection issues.

The project will help define and distinguish different types of assets, remains and personal data, define their inheritability and transmission, as well as examine existing rules on applicable law, jurisdiction, data protection and other relevant areas of law, with a view to ascertaining their suitability for this field, failing which proposals may be put forward.

Key target audiences include EU and Member State legislators and governments, courts, legal professionals, technology companies and service providers, professional associations, civil society, and citizens. More information can be found [here](#).

The Project will be led by Prof Dr Antoine Eigenmann and Dr Edina Harbinja and it aims at concluding in October 2025. All interested ELI Members are invited to join the project's Members Consultative Committee by sending an email to the ELI Secretariat.



ELI Webinar on Amendments to the European Commission Proposal on the Recognition of Foreign Filiations

On 2 October 2023, ELI hosted a webinar on its newly adopted project on Amendments to the European Commission Proposal on the Recognition of Foreign Filiations.

The recording of the Webinar, which featured Pascal Pichonnaz (ELI President, Professor, University of Fribourg), Co-Reporters Susanne Gössl (Professor, University of Bonn) and Ilaria Pretelli (Senior Research Fellow, Swiss Institute of Comparative Law), Maria Vilar Badia (European

Commission, DG JUST, Unit A1 Civil Justice) and Maša Jeričević Šušteršič (Network of European LGBTIQ* Families Associations (NELFA); Legebitra, Slovenia) is available [here](#).



Further Updates on ELI Projects

The following events took place in September and October 2023.

ELI Project: Access to Digital Assets

8 September, Meeting

Members of the Project Team, Advisory Committee, and Members Consultative Committee discussed the Draft ELI Principles on Enforcement of Digital Assets. More [here](#).

ELI Project: ELI Expert at the Council of Europe

28–29 September, Meeting

Prof Dr Jens-Peter Schneider participated in the final meeting of the Working Group of the Council of Europe. More [here](#).

ELI Proposal: (Electronic) Evidence Presented at EPPO

4–5 October, Presentation

Prof Dr Lorena Bachmaier Winter, Co-Reporter for the Directive on Mutual Admissibility of Evidence, presented the ELI Proposal at an EPPO training course. More [here](#).

ELI Project: Advance Choices for Future Disablement

19 October, Reporters Meeting

Co-Reporters Prof Dr Christiana Fountoulakis and Adrian Ward met in Helsinki to review the project's progress and agree on the next steps. More [here](#).

ELI Project: Digitalisation of Civil Justice Systems

23 October, Meeting

Dr Dory Reiling (Lead Reporter) and Associate Reporters, Prof Masood Ahmed, Prof Xandra Kramer and Dr Jiří Novák convened the Project Team to review progress. More [here](#).

ELI Project: Enterprise Foundations

25 October, Presentation

Prof Dr Anne Sanders and Prof Dr Steen Thomsen, Co-Reports of the Project, gave a presentation at the Philanthropy Europe Association (Philea), an Observer to the project. More [here](#).

ELI Project: Recognition of Foreign Filiations

30 October, Meeting

Project Reports, Prof Dr Susanne Güssl and Dr Ilaria Pretelli, discussed initial drafts and shared considerations with the Project Team. More [here](#).

ELI Project: ELI-Mt Scopus European Standard of Judicial Independence

30 October, Meeting

The Reporters will review input from the Project Team and Advisors at the above meeting. Results are due in spring 2024. More [here](#).

MCC Call

ELI Members are invited to join one or more Members Consultative Committees (MCCs) of the following projects:

- Model Rules on Succession of Digital Assets
- Data and other Digital Remains
- Access to Digital Assets
- ELI Principles on the Extra-Judicial Administration of Justice in Cross-Border Family and Succession Matters
- ELI-Mount Scopus European Standards of Judicial Independence
- Digitalisation of Civil Justice Systems in Europe
- Climate Justice – New Challenges for Law and Judges
- Guiding Principles and Model Rules on Algorithmic Contracts
- Third Party Funding of Litigation
- Advance Choices for Future

- Disablement
- Corporate Criminal Liability in the European Union
- Enterprise Foundations in Europe

MCC members will be invited to comment on drafts at various stages of the project's lifecycle. Typically, Project Reporters will submit drafts to the MCC at least twice per year, ahead of the ELI Council meeting in February and September, and invite comments.

It goes without saying that MCC members will be fully acknowledged in the final ELI publication.

You can register your interest to join one or more MCCs by sending a message to [ELI Secretariat](#).

ELI Welcomes its New Members

ELI is pleased to welcome the following Institutional and Individual Members that have joined recently.



New Institutional Members

The Supreme Administrative Court of Lithuania

The Supreme Administrative Court of Lithuania (Lietuvos vyriausiasis administracinis teismas) was established on 19 September 2000 and started its activities on 1 January 2001. The Supreme Administrative Court of Lithuania is the first and final instance for administrative cases assigned to its jurisdiction by law. It is an appeal instance for cases concerning decisions, rulings and orders of the first instance administrative courts. Rulings of the Supreme Administrative Court of Lithuania are final and not subject to appeal. As the supreme judicial institution in administrative cases, it develops uniform case law of administrative courts in interpreting and applying laws and other legal acts.

University of Coimbra Institute for Legal Research (UCILeR)

The University of Coimbra Institute for Legal Research (UCILeR) is a research unit at the Faculty of Law. Fully aware of its traditions, contributing to the production and dissemination of legal knowledge in the last few centuries, it is UCILeR's purpose to steer its research to contemporary expectations and quality standards. UCILeR is proud of its past and driven to meet the highest standards of excellence in its future activity. UCILeR's 86 researchers offer a wide range of issues studied and critical mass, hence research excellence in legal studies and also with an interdisciplinary approach.



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New Sustaining Members

Celina Daphne Marian Colquhoun, Barrister, United Kingdom
Małgorzata Skawińska, LEXALIS International Law Firm, Poland

New Individual Members

Balazs Arato, Károli Gáspár University of the Reformed Church in Hungary, Hungary
Yurii Bilousov, Leonid Yuzkov Khmelnytskyi University of Management and Law, Ukraine
Adam Booc, Károli Gáspár University of the Reformed Church in Hungary, Hungary
Hugo Cárdenas, University of Chile, Chile
Giuseppe Franco Ferrari, Bocconi University, Italy
Viktorii Ivanova, Taras Shevchenko National University of Kyiv, Ukraine
Gila Koch, Karl-Franzens-University Graz, Austria
Andrea Moravčíková, Supreme Court of the Slovak Republic, Slovakia
Małgorzata Skawińska, LEXALIS International Law Firm, Poland
Johanna Suttnigg, Karl-Franzens-University Graz, Austria
Takis Tridimas, King's College London, United Kingdom

Updates on ELI Hub and SIG Activities

The following events by ELI Hubs and SIGs took place in September and October 2023.

ELI Annual Conference 2023

On the last day of the 2023 ELI Annual Conference, several Hub and SIG events took place, providing both ELI Members and other conference participants with an opportunity to exchange ideas. The following events took place:

- [Upcoming Baltic Hub Meeting](#)
- [Digital Law SIG Panel](#)
- [Insurance Law SIG Panel](#)
- [Global Private Law SIG Meeting](#)
- [Croatian Hub Panel](#)
- [Upcoming Portuguese Hub Meeting](#)
- [Ukrainian Hub Webinar](#)
- [Family and Succession Law SIG Panel](#)
- [Spanish Hub Meeting](#)
- [Fundamental Rights SIG Meeting](#)

Hubs and SIGs News

ELI Austrian Hub

The ELI Austrian Hub organised an Evening Lecture on Comparing Regulatory Instruments – Empirical Legal Research that is Sound and Relevant at the Same Time on 18 October. More [here](#).

ELI Belgio-Luxembourg Hub

The ELI Belgio-Luxembourg Hub organised a Conference on 'Le Respect de la Vie Privée (RGPD) et l'Entreprise' on 17 October. More [here](#).

ELI Croatian Hub

The ELI Croatian Hub organised its 27th in its Webinar Series on New Challenges to Inheritance Law in the 21st Century. It took place on 19 September. More [here](#).

ELI Croatian Hub

The ELI Croatian Hub organised its 28th Webinar in its Webinar Series on 17 October. Its focus was on Recent Developments in Insolvency Law. More [here](#).

ELI Spanish Hub

The ELI Spanish Hub organised its First Conference on Digital Law on 6 and 13 October. This online event centered around new technologies in the law. More [here](#).

ELI Turkish Hub

The ELI Turkish Hub organised a Webinar on the ELI Report on Business and Human Rights: Access to Justice and Effective Remedies on 14 September. More [here](#).

ELI Turkish Hub

The ELI Turkish Hub organised a Webinar on the ELI Principles on the Use of Digital Assets as Security on 31 October. More [here](#).

ELI Business & Financial Law SIG

The ELI Business and Financial Law SIG held a Webinar on the taxation of digital assets, including crypto, the metaverse, and NFTs on 22 September. More [here](#).

ELI Digital Law SIG

The ELI Digital Law SIG supported a Conference on 'Automi Computazionali e Categorie del Diritto Civile'. The event took place on 13 and 14 October. More [here](#).

ELI Fundamental Rights SIG

ELI Fundamental Rights SIG organised a discussion on the Death Penalty in America with the American Constitution Society the 27 October. More [here](#).

Updates on ELI Hubs and SIGs

ELI Executive Committee Approves Launch of the ELI Portuguese Hub

The approval was granted by the Executive at its meeting of 12 June 2023.

Following elections, Prof Dr Graça Enes and Dr Marta Santos Silva were voted in as the new Hub Chairs on 27 September 2023. Prof Dr Paulo Mota Pinto, Prof Dr Henrique Sousa Antunes and Judge Carlos Marinho serve on the Advisory Board. ELI is immensely grateful to them all.



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ELI Hub and SIG Chairs Meeting

Current and aspiring ELI Hub and SIG Chairs held their first plenary meeting on 9 October 2023 to exchange collaborative ideas on how best to synergise and on other topics of importance.

The meeting, which took place online, drew 34 representatives of ELI's 16 Hubs and 11 SIGs. The Chairs of ELI's award-winning Hubs and SIGs, namely the Croatian Hub, Austrian Hub, Digital Law SIG, Sustainability and Environmental Law SIG, offered tips on strategising, while the Turkish Hub and Irish Hub Chairs offered insights on translating ELI output and hosting an ELI Annual Conference respectively. A second meeting will be held in 2024.

Current ELI SIGs

- Administrative Law SIG
- Business and Financial Law SIG
- Competition Law SIG
- Digital Law SIG
- Dispute Resolution SIG
- Family and Succession Law SIG
- Fundamental Rights Law SIG
- Global Private Law SIG
- Insurance Law SIG
- Intellectual Property Law SIG
- Sustainability and Environmental Law SIG

Current ELI Hubs

- Austrian Hub
- Belgio-Luxembourg Hub
- Croatian Hub
- French Hub
- German Hub
- Hungarian Hub
- Irish Hub
- Italian Hub
- Nordic Hub
- Polish Hub
- Portuguese Hub
- Slovenian Hub
- Spanish Hub
- Turkish Hub
- UK Hub
- Ukrainian Hub

Events Calendar At-A-Glance

Please save the following dates. Stay up to date by visiting our [website](#) and following our social media channels.

Dec

5 Dec ALI-ELI Webinar on ALI-ELI Principles for a Data Economy: A New Framework for Innovation and Growth
Online, register [here](#).

13 Dec ELI Enterprise Foundations Project Workshop
Hybrid

Jan

17 Jan Access to Digital Assets Project Team Meeting
Online

Feb

5–6 Feb ELI-UNIDROIT Model European Rules of Civil Procedure Dissemination Conference
Vienna, Austria. Register [here](#).

Events Calendar At-A-Glance

Please save the following dates of upcoming ELI Hub and SIG events. Stay up to date by visiting our [website](#).

Nov	16 Nov	ELI Family and Succession Law SIG: Hosts two events, a webinar on The New Family Law: Children in Law and New Family Models and a hybrid event on New Technologies and Filiation. Online and Hybrid
	27 Nov	Austrian Hub: Supports Seminar Series on Current Problems of Private Business Law, with Prof Dr Wolfgang Wurmnest (University of Hamburg) Hybrid
	27 Nov	ELI Spanish Hub: Supports a workshop on Gender in the Law organised by the Faculty of Law of the University of Girona. Hybrid
Dec	11 Dec	Austrian Hub: Supports Seminar Series on Current Problems of Private Business Law, with Prof Dr Stephan Lorenz (University of Munich) Hybrid
Jan	8 Jan	Austrian Hub: Supports Seminar Series on Current Problems of Private Business Law, with Prof Dr Tanja Domej (University of Zürich) Hybrid
	11–12 Jan	ELI Digital Law SIG: Supports the 8th Münster Colloquium on EU Law and the Digital Economy Münster, Germany
Ongoing	21 Sep–20 Jun 2024	ELI Digital Law SIG: Supports a series of Events on the Neuro-Ethical Law Paris, France
Upcoming	End of 2024	ELI Insurance Law SIG: Book is expected to be published by the end of 2024, exploring insurance ombudsman schemes

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:	Pascal Pichonnaz
First Vice-President:	Anne Birgitte Gammeljord
Second Vice-President:	Sir Geoffrey Vos
Treasurer:	Pietro Sirena
Other Members:	Sylvaine Poillot-Peruzzetto Teresa Rodríguez de las Heras Ballell Aneta Wiewiórowska-Domagalska

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

Schottenring 16/175

1010, Vienna, Austria

T +43 1 4277 221 01

F +43 1 4277 922 1

www.europeanlawinstitute.eu

secretariat@europeanlawinstitute.eu



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