



# ELI

EUROPEAN  
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# ELI Updates

## May–June 2018

### MESSAGE FROM KLAUS-HEINER LEHNE PRESIDENT OF THE EUROPEAN COURT OF AUDITORS



Dear ELI Members and Friends

It is a pleasure to be able to wish the European Law Institute (ELI) a happy seventh birthday and at the same time contribute to its newsletter from the perspective of the institution I have the honour to preside, the European Court of Auditors (ECA).

As a lawyer by training, a lawmaker and lastly, Supreme Auditor of the European Union, I believe that a multidisciplinary approach helps improve the quality of our work at EU level. What I have often witnessed, however, was that at every stage in the legislative cycle – at EU and also at national level - there has been the tendency for institutions to complete their part in the process and then consider their mission to be accomplished. The reality is very different.

A piece of legislation may be theoretically perfect but produces no effect whatsoever on the ground. A political compromise made at the eleventh hour may be clear to those who negotiated it but gibberish to everyone else. In an administration, it might be seen as more exciting to deal with new proposals rather than investigating if existing laws have been transposed and implemented well. New proposal adopted – problem solved!

What is often missing along this chain is a sense of collective responsibility for the final result – did the EU deliver for its citizens or not?

For many years at the European Court of Auditors, the focus had been mainly on compliance with the legal framework and the often complex procedures involved. Now we are seeking to complement this essential aspect with much greater scrutiny of the 'performance' of EU policies. We look at policies and financial programmes several years down the line to see what effect they have produced in practice, and whether it is actually possible to measure what their effects were. Not knowing precisely the effects of the laws and policies one enacts is somewhat akin to groping around in the dark. At the Court of Auditors we try to bring some light to bear, and as you will be able to see from our thematic 'special reports', the best intentions do not always produce the best results. In such cases, the remedy may vary: better enforcement, different implementation or indeed legislative amendment.

What I would therefore wish you for your seventh birthday is to keep an open mind to interdisciplinary thinking. As legal experts, ask yourselves why the administrator or the economist made a given proposal, what the elected representatives will make or have made of it, how different civil servants might apply it, and what the auditor would think of it. This will, I hope, help us all in delivering high quality results for our citizens.

Klaus-Heiner Lehne  
President of the European Court of Auditors

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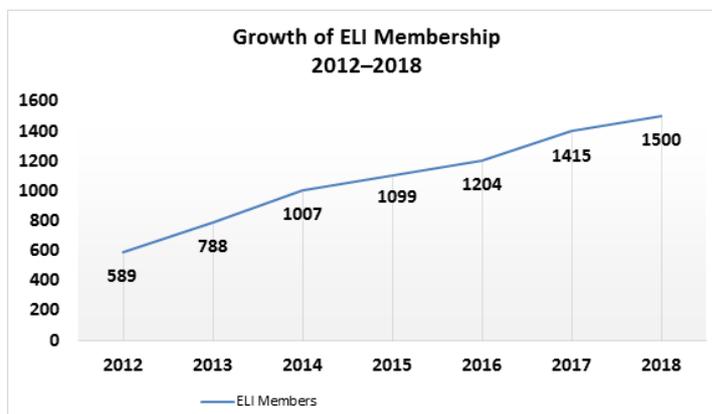
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## The ELI Turns Seven

On 1 June 2018, the ELI marked its seventh birthday. With currently around 1,500 Individual Members (including academics, judges, lawyers and other legal professionals) and over 100 Institutional Observers (comprising EU institutions and international organisations, law firms, professional associations and academic and other Observers) from Europe and beyond, the ELI is steadily growing.

Since its last birthday, the ELI has completed another three projects: the [Rescue of Business in Insolvency Law](#); [Detention of Asylum Seekers and Irregular Migrants and the Rule of Law](#); and [the Principled Relationship of Formal and Informal Justice through the Courts and Alternative Dispute Resolution](#) (conducted with the European Network of Councils for the Judiciary, ENCJ). The latter was approved by the ELI Council in February 2018 and by the ENCJ on the very day on which the ELI marked its seventh birthday.



To date, the ELI has completed a total of nine projects and currently has nine ongoing and three prospective projects. Since its founding, the ELI has proven its ability to offer comprehensive solutions with immediate practical utility for legislative bodies, judiciaries and other interested parties. We all very much look forward to observing the Institute's further growth in the year ahead.

## Become an ELI Member Today!

The objectives of the ELI are multifold: these include the desire to maintain diversity with regard to areas of expertise, national and professional backgrounds and to offer a unique meeting point for its members, the broad constituency of which provides legitimacy to ELI projects. In order to achieve this, the ELI Membership Committee announces different focal points for members throughout the year. Applications from jurists in other fields are, as always, highly desirable too, irrespective of the Membership Committee's current focus.

Membership applications can be made directly through the [ELI's website](#). Detailed information on what the ELI currently does and stands for can be found on the website as well.

### Sustaining Membership

The ELI, as an independent non-profit organisation, is always looking to diversify its income to maintain its independence. This is to ensure that the outcomes of its current and future initiatives are not politically motivated or steered by the interests of third parties. Our members can contribute to this endeavour by subscribing to the



Sustaining Membership scheme. Sustaining Members are members who clearly subscribe to adding, voluntarily, a fixed donation of €60 or more per year to their current membership fee until further notice. This will enable the ELI to embark on new initiatives that further its causes. It is worth emphasising that at the heart of the notion is not a bid to create a new category of members but rather to rename and adapt the existing notion of 'Benefactor', which has been included in all membership invoices since February 2016.

**Membership Fee:** if you have not yet paid your membership fee for 2018, please do so by filling in a SEPA Direct Debit mandate form, which you will find [here](#). Please [contact the Secretariat](#) with any questions arising in this context.

## ELI Event with the European Parliament (EP) in Vienna (Austria)

On 19 June 2018, a delegation of the European Parliament, headed by President Antonio Tajani, visited the University of Vienna and held a Q&A session with students from across Austria. This event was co-organised by the University of Vienna, the European Parliament Information Office in Austria and the ELI and was moderated by ORF presenter, Claudia Unterweger.

Students were welcomed by the Rector of the University of Vienna, Heinz W. Engl, President of the University Council, Eva Nowotny, and EP President Antonio Tajani. President Tajani particularly welcomed the opportunity to engage with students directly. He called reducing the distance between EU citizens and their representatives in the EP one of his main objectives during his Presidency. The

for an overall approach and the implementation of better minimum wage measures. The second session was on migration, strengthening of European borders and free movement of persons. Tajani emphasised the importance of secure external borders and called for



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discussion was divided into three thematic sessions. In its first part, the discussion revolved around social injustice and youth unemployment, issues that were seen as a great threat by all panellists.

While some emphasised the role of the industry and strengthening companies in general, others called

more solidarity with southern European countries, while Josef Weidenholzer, Vice-President of the S&D (Group of the Progressive Alliance of Social Democrats), strongly criticised EU institutions for not acting fast enough. Ska Keller, Co-President of the Group of the Greens/European Free Alliance, spoke in favour of legal and secure routes for refugees, fair distribution and legal paths of migration whereas Peter Lundgren, Vice-Chair of the EFDD (Europe of Freedom and Direct Democracy Group), saw external borders as a cornerstone for the freedom of persons.

Finally, the discussion centred on Austria's imminent Presidency of the Council of the EU, data protection, climate change and human rights. EP President Tajani closed the event by thanking the students for their lively participation and emphasised, once more, the importance of the protection of human rights for the EP.



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## Tentative Agenda: 2018 Annual Conference and General Assembly in Riga (Latvia) from 5–7 September

### Wednesday | 5 September

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|               |   |
|---------------|---|
| 09:30 - 10:55 | Registration (Council and General Assembly only)                      |
| 11:00 - 13:00 | Council Meeting   |
| 13:00 - 13:55 | Lunch   |
| 14:00 - 15:30 | Council Meeting   |
| 15:30 - 15:55 | Coffee Break  |
| 16:00 - 18:00 | General Assembly and ELI Young Lawyers' Award - Winner's Presentation |
| 19:00 - 22:00 | Opening Ceremony and Reception  |

### Thursday | 6 September

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|               |  |   |
|---------------|--|---|
| 08:00 - 09:00 | Registration   |   |
| 09:00 - 09:30 | Welcome Addresses  |   |
| 09:30 - 11:00 | Principles for a Data Economy                                      | Protection of Adults in International Situations    |
| 11:00 - 11:25 | Coffee Break   |   |
| 11:30 - 13:00 | Draft Model Rules on Online Intermediary Platforms (I)             | Common Constitutional Traditions in Europe          |
| 13:00 - 13:55 | Lunch  |   |
| 14:00 - 14:45 | Keynote Speech   |   |
| 14:45 - 16:15 | Draft Model Rules on Online Intermediary Platforms (II)            | Fiduciary Access to Digital Assets                  |
| 16:15 - 16:40 | Coffee Break   |   |
| 16:45 - 18:15 | From Transnational Principles to European Rules of Civil Procedure | Principles of Liability in Digitalised Environments |
| 19:30 - 22:00 | Gala Dinner  |   |

### Friday | 7 September

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|               |  |  |
|---------------|--|--|
| 09:00 - 10:30 | Empowering European Families                                     | A Latvian Perspective on Topics of Current and Prospective ELI Projects (I) (tbc)  |
| 10:30 - 10:55 | Coffee Break   |  |
| 11:00 - 12:30 | Research and Development Tax Incentives                          | A Latvian Perspective on Topics of Current and Prospective ELI Projects (II) (tbc) |
| 12:30 - 13:25 | Lunch  |  |
| 13:30 - 14:55 | Business and Human Rights  | Blockchain Technology and Smart Contracts  |
| 15:00 - 15:45 | Keynote Speech   |  |
| 15:45 - 16:10 | Coffee   |  |
| 16:15 - 17:45 | e-CODEX and its Impact on Execution of European Legal Procedures |  |
| 19:30 - 22:00 | Social Event   |  |

## Panel Discussions at the Annual Conference

The European Law Institute's Annual Conference, to be held in Riga from 5–7 September 2018, will host a number of panels covering diverse branches of law. Join us to discuss current topical legal issues with experts from across Europe and beyond and influence the course of the development of European law. To give you an insight into each panel, kindly find a brief description below.

### Panels on 6 September

#### Principles for a Data Economy (09:30–11:00)

In its new role as an asset that can be sold and exchanged, data has become a key element of transactions all over the world. The new reality creates uncertainty about what rights parties 'own' and can trade in. The discussions about 'data ownership' and its meaning in economic and legal terms are still ongoing with legislators seeking to provide solutions that would reduce insecurities of the parties concerned. In order to do that, the existing and potential legal rules applicable to transactions in data as an asset and as a tradeable item need to be analysed and the 'fit' of those rules must be assessed taking into account new types of transactions. To fulfil this goal, the ALI (American Law Institute) and ELI conducted a Feasibility Study to analyse how law in the US and EU applies to the new data economy. Preliminary results

of this Feasibility Study revealed that it is possible to set basic principles and identify the main challenges that both lawmakers in the US and in Europe face. The ALI and ELI further decided to continue their work within a joint project aiming to produce a set of transnational principles that can facilitate the drafting of model agreements or provisions to be used on a voluntary basis and serve as a source for inspiration and guidance for courts and legislators worldwide. The panel at the ELI Annual Conference will explore relevant issues pertaining to the ongoing ALI-ELI work in the field and will discuss the draft results of the Feasibility Study with the audience.



#### Protection of Adults in International Situations (09:30–11:00)

The increasing mobility of adults who are unable to protect their personal affairs or their property because of an impairment or insufficiency of their personal faculties has become an international concern. The difficulties arising out of the diversity of legal systems and the low number of accessions to the Hague Convention of 13 January 2000 on the International Protection of Adults are among the reasons why the ELI embarked on the project dealing with the Protection of Adults in International Situations in September 2017. The project

takes into account the Resolution of the European Parliament of 1 June 2017 with recommendations to the Commission on the protection of vulnerable adults (2015/2085(INL)). The panel will consider the added value of future EU legislation which aims at enhancing the cross-border protection of vulnerable adults and the legal significance of the Hague Convention in this context.



This project is co-funded by the European Union

#### Draft Model Rules on Online Intermediary Platforms (I) (11:30–13:00)

Following the successful presentation of the project at the ELI Annual Conference in Vienna in 2017 as well as further project team meetings in 2018, the project on Draft Model Rules on Online Intermediary Platforms is entering its final stage. This project aims at ensuring better protection of consumers and other platform users by providing clear solutions with regard to online intermediary platforms. The latter increasingly shape our economy as the number of platforms as well as

their users is rapidly rising. Since the existing EU regulatory framework mainly deals with bilateral supplier-customer relations, the platforms-based economy, characterised by trilateral relations, urgently needs new rules. The two panels on the project have a slightly different format. This panel will present the draft rules elaborated by the team and discuss them with stakeholders.



This project is co-funded by the European Union

### Common Constitutional Traditions in Europe (11:30–13:00)

Article 6(3) of the Treaty of the European Union refers to 'common constitutional traditions'. The question of what traditions are common engages both the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECHR). The Council of Europe's Venice Commission also seeks to establish common standards around the rule of law, democracy and human rights. The issue is of increasing importance as European legal integration develops, while at the same time liberal values are challenging. This ELI project aims

at identifying these traditions and, most importantly, developing a methodology that would allow for their further identification in court practice and elsewhere. Following fruitful discussions on the topic at the ELI Annual Conference in Vienna in 2017 and the approval of the proposed project by the ELI Council in February 2018, the project team has begun elaborating on its work and will present its progress to date at the panel.



This project is co-funded by the European Union

### Draft Model Rules on Online Intermediary Platforms (II) (14:45–16:15)

This second panel on Draft Model Rules on Online Intermediary Platforms will provide ELI members and participants of this year's Annual Conference with an opportunity to discuss the draft rules with a view to giving

feedback to the team. Such input is indispensable for the furtherance of the team's work. The final Model Rules will be presented at the ELI Annual Conference in 2019.

### Fiduciary Access to Digital Assets (14:45–16:15)

Since the digital world is cross-border, consideration of European and even global harmonisation is vital, particularly with regard to tracing and gaining access to digital assets which could be stored on servers anywhere. An approach that overarches legal traditions is needed and consensus with and within the IT industry ought to be reached. This ELI project aims to elaborate on a draft European legislative instrument, enabling the tracing and gaining of access to digital assets within the European Union in the interests of European private citizens (not

only in cases of digital inheritance, but also when digital matrimonial or registered partnership property must be separated in divorce cases) and European businesses (in cases of defaulting debtors, who possess digital assets, such as digital currencies) and the panel will allow for further discussions on issues pertaining to the above topic.



This project is co-funded by the European Union

### From Transnational Principles to European Rules of Civil Procedure (16:45–18:15)

The divergences between national rules on civil procedure developed over a long period of time and the question of which rules are applicable in a situation when parties enter into a transaction involving more than one State, led to the conclusion that a certain degree of unification of the rules governing private international law would unequivocally contribute to the simplification of the resolution of civil disputes across Europe. Therefore, the ELI and the International Institute for the Unification of Private Law (UNIDROIT) undertook a joint venture aimed at analysing the different civil procedure regimes and at drafting a set of unified

regional principles of civil procedure. Greater harmony and homogeneity of such important legislation within Europe would facilitate the free movement of citizens and businesses across borders. Numerous organisations in their capacity as observers, inter alia, the European Parliament and the Commission have shown interest in the project, which has been referred to in several working documents at EU level. As the project is soon drawing to an end, this panel will discuss its current state and the work produced by two of the final working groups, on parties and costs.



This project is co-funded by the European Union

### Principles of Liability in Digitalised Environments (16:45–18:15)

The location of data is no longer in a physical jurisdiction but in clouds which may change rapidly. In addition, damage may be caused by autonomous agents acting according to patterns derived from deep learning, or by centralised autonomous organisations.

As a prospective ELI project, the panel devoted to the

Principles of Liability in Digitalised Environments will explore the feasibility of embarking on work to improve existing legal regimes and developing transnational model rules to be used as sources of inspiration by legislators.



This project is co-funded by the European Union

## Panels on 7 September

### Empowering European Families (Presentation of Results) (09:00–10:30)

After more than ten years of working group meetings, and following numerous presentations of the interim output of the project at several public workshops and conferences, including the 2016 and 2017 ELI Annual Conferences, the team is now ready to present the final results and findings of the Empowering European Families: Towards More Party Autonomy in Family and Succession Law project, embarked on by experts from the Universities of Vienna and Utrecht with the help of an EU action grant and conducted as an ELI project. The aims of this project

were to reduce obstacles faced by international families and to facilitate the freemovementofcitizensbyprovidingbettercertaintyand predictability of results and reducing the costs of litigation in matters of family and succession laws. Moreover, it also aimed to promote the use of family mediation in the EU. The panellists will have the opportunity to discuss the resulting ELI Instrument with those interested in the panel.



Co-funded by the Justice Programme of the European Union

### Research and Development Tax Incentives (11:00–12:30)

Research and Development (R&D) is one of the areas of particular interest for the European Union. There are various methods of incentivising enterprises active in the field of R&D, for example through tax incentives. The R&D tax incentives that are currently in place, are not harmonised within Europe. However, the European Commission recently proposed a Common Consolidated Corporate Tax Base (CCCTB), including a super deduction for qualifying tax expenses, with the aim of providing a common corporate tax base for EU Member States. This should improve the situation by reducing administrative burdens, compliance costs and tax obstacles for companies operating in several EU Member States.

There is much ongoing debate about the EU super deduction and its possible relation with national tax incentives. In particular, the definition of qualifying R&D expenses eligible for super deduction has to be refined. Following the approval by the ELI Council of this ELI project in November 2017, the team is now ready to present their Statement. It focuses on providing a general framework detailing what would be eligible for R&D tax incentives. The participants of the panel will discuss the output of the project.



This project is co-funded by the European Union

### Business and Human Rights (13:30–14:55)

As some multinational corporations gain economic and social influence, which rivals that of nation states, it is necessary to also review their impact on human rights. Where this impact amounts to violations of human rights, effective remedies should be made available to victims. At

present, access to justice in ensuring the maintenance of such standards is often hindered by a number of factors, partly inherent in the imbalance of power between victims of human rights abuses and



This project is co-funded by the European Union

international businesses. The European Union Agency for Fundamental Rights (FRA) and the ELI have recently embarked on a joint project to tackle the issue of access to remedies for human rights abuses and encourage deterrence of corporate practices and activities harmful to stakeholders and the wider community. The Business

and Human Rights panel will explore and identify a range of relevant issues pertaining to the ongoing ELI-FRA work in this area, discuss measures intended to increase access to remedies and ensure greater corporate responsibility. A discussion on the horizontal effect of human rights on businesses will also be had.

### Blockchain Technology and Smart Contracts (13:30–14:55)

Blockchain Technology and Smart Contracts is one of three upcoming ELI projects. Blockchains are technologies that have a huge potential to fundamentally change many areas of private law transactions. Blockchain technology is already used to produce digital currency and to replace some back-office functions of banks and insurance providers. Its application in land registration and numerous other fields is constantly being considered. Within a few years, blockchain technology, and its distributed ledger system, could be the basis of the registration of vast values in real property and currency. It would be irresponsible not to scrutinise the legal basis for these applications and consider how the law can enshrine sufficient operational security and

whether minimum standards should be regulated, either at national or European level. At the same time, blockchain technology is starting to offer interesting opportunities for private transactions in the form of smart contracts. Such contracts eliminate the need for trust and good faith, but can easily be frustrated at the slightest change of contractual circumstances. Whether the current system of private law can readily cope with these novel forms of 'self-executing' agreements, or whether new solutions are required, are fundamental questions and this panel will aim at finding the answers.



This project is co-funded by the European Union

### e-CODEX and its Impact on Execution of European Legal Procedures (16:15–17:45)

e-CODEX is the digital infrastructure to exchange case related data between legal authorities in the European Union. e-CODEX also improves cross-border access of citizens and business to legal services in other Member States. At the moment the main effort of the e-CODEX community is extending e-CODEX support in more Member States and implementing better legal procedures. In addition to extensive coverage, procedural expertise with e-CODEX is on the rise. The ELI is keen to assess e-CODEX experiences with a view to addressing the challenges that the use of technology

brings to justice. What is the impact of IT processes on the law? What about IT governance and the independence of the judiciary? What do we know about the impact of procedural law on digitalisation? How to create trust in digital solutions? What can be improved at EU level and what should remain the responsibility of Member States? How can the use of clear and coherent legal terminology facilitate the building of digital tools for legal practice?

This panel will seek to address these questions and will briefly explain the role of e-CODEX, report on a legislative proposal on the subject and describe the e-CODEX domain, including the impact of e-CODEX in the preparation and execution of legal procedures.

Click [here](#) to read the latest e-CODEX newsletter and here to follow the discussions on the [e-CODEX LinkedIn page](#).



# SIG and Project Meetings at the 2018 Annual Conference and General Assembly

## SIG Meetings

On the last two days of the Conference, several Special Interest Groups (SIGs) will hold meetings, parallel to the project panels, including:

- Business and Financial Law SIG meeting (6 September, 09:30-11:00)
- Fundamental Rights SIG meeting (6 September, 15:00-16:30)
- Dispute Resolution SIG meeting (7 September, 09:15-10:45)
- Digital Law SIG meeting (7 September, 11:15-12:45)
- Family and Succession Law SIG meeting (7 September, 14:30-16:00)
- Global Private Law SIG meeting (7 September, 16:30-18:00)

## Project Meetings

The following projects teams will have meetings during the 2018 Annual Conference and the respective Members Consultative Committees (MCC) are welcomed to join:

- Draft Model Rules on Online Intermediary Platforms (7 September 2018, 16:30–18:00)
- Principles for a Data Economy (8 September 2018, 09:00–14:00)

## What is an MCC?

For most ELI projects, the Council will establish a Members Consultative Committee (MCC) shortly after the reporters or project leader and other members of the project team have been appointed. On acceptance of appointment, MCC members shall sign a declaration of adherence to the ELI Project Guidelines. The MCC will comment on the project plan and on any preliminary project results that have been submitted. Any ELI member who is interested in actively contributing

to the development of a project is invited to join the MCC, irrespective of the member's status as a Fellow, Individual Observer or Institutional Observer. There is no limit to the number of members who can participate, and MCC members need not be experts in the relevant field. MCC members come from various legal professions and specialise in different areas of law. It is exactly this diversity which enriches the debating potential of the MCC and makes its contribution so valuable.

## How to Join an MCC

If you are interested in joining any of the MCCs, please send an email to the [ELI Secretariat](#). For more information on MCCs, kindly click [here](#).

## Updates on Projects

### ALI-ELI Principles for a Data Economy Project Team Meeting in Washington DC (USA)

The ALI (American Law Institute)-ELI joint project team on the Principles for a Data Economy held a meeting on 19–20 May 2018 to discuss the current work of their project, go through their draft principles and revise them. The meeting, which took place in the USA, provided attendees with an opportunity to discuss some pressing issues pertaining to the theme of the emerging data economy, such as third-party effects, and redraft the latest version of their Principles. The draft will be further discussed and circulated with the Advisory Committee and Members Consultative Committee (MCC) at the end of July/early August (and at a meeting on 8 September in Riga) and will be presented and discussed at the ELI Annual Conference on 6 September in Riga.



### ELI-UNIDROIT Working Group on Structure Meet in Paris (France)

The ELI-UNIDROIT Structure working group met on 23 May 2018 in Paris. The meeting was kindly hosted by Professor Loïc Cadiet at the École de droit de la Sorbonne Université Paris 1.

This was their second meeting of the working group in 2018, the first having taken place on 17 January in Paris. The focus of the meeting was on Part I of the consolidated draft of rules on civil procedure. Among other things, members of the working group, Loïc Cadiet, Xandra Kramer, John Sorabji and Rolf Stürner, discussed the following issues: the incorporation of new draft rules, the structures of particular sections, the content of new sections and the draft on parties, court management, the commencement of proceedings and preparations of final hearings. The meeting resulted in a refined and improved structure, and a further consolidation of the draft, including of Part I.



Project Team during the Meeting in Paris

The Structure working group was established in 2015 to coordinate the emerging draft rules within a functional whole and to have oversight of linguistic issues.



This project is co-funded by the European Union

## Preventing and Resolving Conflicts of Jurisdiction in EU Criminal Law Conference and Book Launch in Luxembourg (Luxembourg)

This Conference and Book Launch took place on 31 May 2018 and was co-organised by the ELI and the University of Luxembourg. During this event, the project reporters presented the outcome of the ELI project on the Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law.

The [ELI's Instrument on Criminal Law](#) was the first of several Instruments to be approved in 2017. The Conference thus marked an occasion for the output to be disseminated and discussed.

Participants were welcomed by ELI President Christiane Wendehorst, who chaired the first session of the day – a presentation of the ELI Instrument on Criminal Law by the project reporters (Katalin Ligeti, John Vervaele and

André Klip). This session was followed by a roundtable, which was devoted to views from policy, practice and civil procedure and a panel on the 'Area of Freedom, Security and Justice'.

In the afternoon, the Conference continued with two panels on parallel enforcement regimes and challenges on the horizon.



## Statement on Alternative Dispute Resolution Unanimously Approved by ENCJ General Assembly

From 30 May–1 June 2018, the ENCJ General Assembly was held at the Academy of Sciences in Lisbon (Portugal) under the 'leading positive change' theme. Amongst other things, ENCJ members were invited to vote on the joint [ELI-ENCJ Statement on Alternative Dispute Resolution \(ADR\)](#), which was unanimously approved.

Among General Assembly participants was ELI Secretary General Vanessa Wilcox. The project was presented by Sir Geoffrey Vos, one of the ELI-ENCJ's project's reporters. The Principled Relationship of Formal and Informal Justice through the Courts and Alternative Dispute Resolution project began at a time when Sir Geoffrey was still President of the ENCJ. Now that it has been adopted by the ENCJ General Assembly, its outcome will become a part of the ENCJ's standards.

Sir Geoffrey also reminded those present of the [Conference on Dispute Resolution: Beyond the Courts](#), which will take place at the Academy of European Law (ERA) in Trier (Germany) on 9 November 2018. The output of the project will be presented and consideration of the most viable of the possible avenues recommended by



The ENCJ General Assembly in Lisbon

the project team as fruit for future projects will also be considered.

The ELI would like to take this opportunity to congratulate Kees Sterk, member of the Dutch Council for the Judiciary, elected to succeed Nuria Díaz Abad as President of the ENCJ, as well four new board members. The ELI wishes former ENCJ President Nuria Díaz Abad and other former board members the very best in their future endeavours. The next ENCJ General Assembly will take place on 5–7 June 2019 in Bratislava (Slovakia).

## Common Constitutional Traditions in Europe Project Meeting in London (UK)

Following a successful first project team meeting in [April 2018 in Rome \(Italy\)](#) and a seminar with representatives from the CJEU and from the Italian Constitutional Court on [9 May in Turin \(Italy\)](#), the project team held their second meeting on 12 June in London (UK).

The fruitful discussion focused on elaborating upon considerations that national reporters in various selected EU Member States – the basis for further comparative research – will have to address.

The team also assigned the task of preparing reports among its members, with a view to discussing them at the project's kick-off meeting in Turin in November 2018. The programme of the latter meeting was also discussed as well as preparations for meetings scheduled for 2019 (in Passau (Germany) and Aix-en-Provence (France)).



Participants of the Seminar in Turin

Much consideration was given to the composition of the project's Advisory Committee, which has since been approved by the ELI Executive Committee.

You can read more about the project [here](#).

## Business and Human Rights Project Meeting in Vienna (Austria)

The joint ELI-FRA project team on Business and Human Rights: Access to Justice and Effective Remedies held a meeting on 15 June 2018. The meeting, which took place at the ELI Secretariat in Vienna, was attended by project reporters Diana Wallis and Jonas Grimheden as well as project team members Duncan Fairgrieve, Filip Gregor, Sheena Keller and Lise Smit.

In the course of the meeting, the team discussed policy developments in the area, planned their work going forward and focused on topics to be covered under the scope of the project. Those assembled also discussed the possible composition of the Advisory Committee and upcoming project-related events.

Among other scheduled events for the year, team members will meet in Vienna on 24 September and on



Project Team Members During their Meeting

16 November. The meeting on 24 September will take place on the margins of the FRA Fundamental Rights Forum which is scheduled for 25–27 September. In addition, several members of the joint ELI-FRA project team will sit on a 'From Corporate Social Responsibility to Responsibility to Respect Human Rights: Role of Businesses in Human Rights Protection' panel at the FRA Forum.

To find out more about the Forum, click [here](#).



This project is co-funded by the European Union

## SIG Updates

### Administrative Law SIG Conference in Budapest (Hungary)

On 6–7 June 2018, the Administrative Law SIG held, as it did last year, a Conference in cooperation with Andrásy University Budapest, Eötvös Loránd University (ELTE, Budapest) and (this time) the Constitutional Court of Hungary. The event was co-sponsored by the Konrad-Adenauer-Foundation. Fifteen speakers gave presentations in their respective fields of interest on different topics concerning administrative law, with a specific focus on the implications of the European Commission's White Paper on the Future of Europe. On the first day of the Conference, Alexander Balthasar (Andrásy University), a coordinator of the SIG, welcomed all participants and highlighted the role of the SIG and the ELI in fostering European-wide cooperation amongst academics and practitioners. Moreover, Balthasar emphasised that the European Union is still a project of which success is not guaranteed and he stressed, as one point of current concern, the growing discordance on the relationship between the rule of law and democracy. Similarly, Tamás Sulyok, President



Participants of the Administrative Law SIG Conference

of the Hungarian Constitutional Court, stated that the Conference addressed important areas of law in which his court must constantly operate. In addition, Sulyok gave an overview on the Hungarian judicial system, comprising his court, administrative courts and ordinary courts. Finally, Pál Sonnevend, Vice-Dean of the ELTE Law Faculty, underlined that the Conference did indeed tackle essential questions and the threats that are facing Europe today.

To read the full report of this Conference, kindly click [here](#).

### Family and Succession Law SIG Workshop in Pisa (Italy)

On 7 June 2018, a Conference on the Present and the Future of European Family and Succession Law took place in Pisa and was organised by the ELI SIG on Family and Succession Law. Guests were welcomed by the Dean of the Law Department of the University of Pisa, Emanuela Navarretta and by the Vice-Rector for International Cooperation and Relations, Francesco Marcelloni. Elena Bargelli, who is one of the two SIG Coordinators, explained the scope of this workshop. Its aim was to combine international private law and substantive law issues, emphasising their factual interplay. The first session of the day was chaired by Salvatore Patti of the University of Rome. This session focused on Regulation No 650/2012 (Succession Regulation), with Anatol Dutta (University of Munich), Ilaria Viarengo (University of Milan) and Daniele Muritano (Notary) as panellists. The two following sections dealt with existing regulations, judgments of the CJEU, comparative analysis of family law issues and non-binding European family law. Jens Scherpe (University of Cambridge) discussed the present and future of parent-child relations in European



Speakers of the SIG Workshop

law, while Olga Cvejic-Jancic (University of Novi Sad) and Valentina Calderai (University of Pisa) focused on surrogate motherhood. The last session of the day, chaired by Maria Rosaria Marella (University of Perugia), gave a comparative overview of spousal and non-spousal relations in European law, with Wendy Schrama of the [ELI Project on Empowering European Families](#) contributing to the same. Elena D'Alessandro (University of Turin) and Màire Nì Schùillebàin (University College Dublin) concentrated their presentations on international family law issues, in particular on divorce and Brussels II bis.

## Hub Updates

### Event by the Italian and French Hub

On 4–5 May 2018, the Faculty of Law of the Lyon Catholic University (France), the University of Florida (USA) and the University of Turin (Italy) as well as with the ELI French and Italian Hubs, organised a conference on the Impact of Technology on International Contract Law: Smart Contracts and Blockchain Technologies. Among esteemed speakers were Diana Wallis (Former President of the ELI and lecturer at the University of Hull, UK), Sjeff van Erp (ELI Vice-President and Professor at Maastricht University, the Netherlands) and Marc Clément (former member of the ELI Executive Committee and judge at the Lyon Administrative Appeal Court, France).

The purpose of this conference was to investigate the intersection between contract law and technology in an international and comparative perspective. The focus was set on a number of areas that are still being debated as they relate to the law of contracts: smart contracts and blockchain technology, network contracts, the contractual status of electronic platforms, intellectual property and privacy issues, as well as contractual drafting. The conference brought together the expertise of scholars and practitioners from different jurisdictions (North America, Europe, Asia) to contribute to current debates on the impact of technology on law.

### Events by the Italian Hub

On 24–25 May 2018, the Italian Supreme Court, the Italian High Council for the Judiciary and the ELI Italian Hub organised a seminar on Judicial Dialogue and Networks for Cost Awareness in Court Actions. The event was preceded by a presentation of the activities of the ELI Italian Hub to participants. The seminar itself, consisted of three sessions over two days. The first session was devoted to judicial cooperation and dialogue among judges both at European and at global level. The second and third sessions focused on law and economics, with reference to

costs in the administration of justice, financial autonomy of courts, and the impact of judges' decisions on the economy. Each session included short interventions by the panellists, followed by a discussion by participants.

From 8–10 June 2018, a Conference on European law for Italian lawyers took place in Naples. Among the speakers were ELI Executive Committee Member Raffaele Sabato and Member of the ELI Council, Francesco Avolio.

## ELI Representation

### ELI Secretary General Attended Conference in Bangkok (Thailand)

The International Union of Judicial Officers (UIHJ) held their 23rd International Congress from 1–4 May 2018. This year, the Kingdom of Thailand played host to the Congress, which is held every three years. The theme of the event, which was opened by the Minister of Justice of Thailand, Suwaphan Tanyuvaradhana, was 'Guaranteeing Secure and Sustainable Justice: The Judicial Officer, an Essential Element of Good Governance'. Among other things, the Congress focused on the challenges of the technological developments facing Judicial Officers, including the move by several jurisdictions towards electronic service of documents. Good governance was the major theme, with ELI Secretary General, Vanessa Wilcox, speaking on a panel on 'The Principles and Tools of Good Governance'. The event was brought to a close with the UIHJ General Assembly and the election of members of the board of the UIHJ for the 2018 to 2021 period, with Marc Schmitz taking

over from Françoise Andrieux. The ELI congratulates Mr Schmitz and looks forward to further strengthening its ties with the UIHJ, one of the four Founding Institutional Observers of the ELI, under his leadership. The ELI would also like to sincerely thank former UIHJ President Françoise Andrieux for her valued support over the years to the ELI.

### ELI President Christiane Wendehorst Met MEP Alain Lamassoure in Vienna (Austria)

On 15 May 2018, Member of the European Parliament (MEP), Alain Lamassoure, was welcomed to the premises of the ELI Secretariat by ELI President Christiane Wendehorst. President Wendehorst gave an overview of the activities of the ELI and presented various ELI projects to MEP Lamassoure. The two discussed tax law in general and in particular, the ELI's project on '[For a European Approach to R&D Expenses Qualifying for the Common Corporate Tax Base Super Deduction](#)'. Among other things, MEP Lamassoure is a Substitute of the [TAX3 Special Committee](#)

[on Financial Crimes, Tax Evasion and Tax Avoidance](#) of the European Parliament and will be one of several speakers at a panel on the same theme at the ELI's Annual Conference in Riga.

Discussions on asylum law, which is related to a recently completed ELI project on the [Detention of Asylum Seekers and Irregular Migrants and the Rule of Law](#), were also held as well as on bioethics.



MEP Lamassoure and ELI President Wendehorst

### **Lecture as part of the Law and Empire course of the University of Vienna (Austria)**

On 17 May 2018, the ELI Secretary General Dr Vanessa Wilcox, as well as Project Officers Ala Šabanovič and Tomasz Dudek gave a lecture on the EU and ELI to students of the Institute for Legal and Constitutional History of the University of Vienna as part of the Law and Empire course. Secretary General Wilcox spoke on the ELI, its structure, aims and priorities, whilst Ala Šabanovič and Tomasz Dudek, Project Officers at the ELI, focused on the ELI's main activity, its projects. Dudek also touched on the functions of ELI Hubs and SIGs and outlined the various incentives for young lawyers at the ELI such as internships, traineeships and the ELI Young Lawyers Award.

### **ELI Vice-President Sjef van Erp at a Conference in Trier (Germany)**

The Planning Cross-Border Succession Conference took place from 17–18 May 2018 in Trier (Germany) and was organised by the Academy of European Law (ERA). Among the speakers was ELI Vice-President Sjef van Erp, who discussed practical issues relating to the European certificate of succession. The Conference sought to

address, among other topics, the recent case law of the CJEU on the Succession Regulation, inheritance tax, as well as digital legacy and the growing need to manage it.

### **Vice-President van Erp at a Conference in Cambridge (United Kingdom)**

From 24–25 May 2018, Vice-President Sjef van Erp attended the 2018 Regulatory Issues in Property Law Conference, which was hosted by the University of Cambridge's Centre for Property Law (CCPL). The Conference gathered property law experts and practitioners from the United Kingdom and beyond to discuss the most important contemporary issues facing property, planning and environmental law. ELI Vice-President van Erp addressed 'The Role of the Common Law in Further Developing European Property Law After Brexit' in his presentation.

### **Meeting between ELI President and the President of the General Court in Luxembourg (Luxembourg)**

On 30 May 2018, ELI President Christiane Wendehorst met with the President of the General Court of the EU, Marc Jaeger, at the premises of the CJEU in Luxembourg. The meeting followed an [earlier one](#) with President Koen Lenaerts, President of the Court of Justice, in January of this year. Given the CJEU's significance and its status as an ELI Institutional Observer, the meeting constituted a forum through which Presidents Wendehorst and Jaeger could elaborate on how to intensify the involvement of the General Court in the activities of the ELI.

Furthermore, Presidents Wendehorst and Jaeger discussed how to ensure the better involvement of the Asian continent in the work of the ELI, in particular whether to rely on contacts with existing Asian counterparts of the ELI and ALI or rather to seek contact with State actors. Finally, both presidents elaborated on the role the ELI could play in enhancing communication between EU policymakers and legislators on the one hand and European citizens on the other, such as by formulating basic principles of European law that would be more understandable to European citizens.

### **ELI President and the President of the European Court of Auditors Meet in Luxembourg (Luxembourg)**

After her meeting with President Jaeger on 30 May 2018, ELI President Christiane Wendehorst was welcomed to the European Court of Auditors (ECA) by its President, Klaus-Heiner Lehne. The two Presidents discussed the special role of the European Court of Auditors (ECA) and its shift of focus from compliance to performance, the importance of impact assessment and performance-related auditing for any kind of law-making as well as forms of cooperation that would be compatible with the special position of the ECA and potential topics for future ELI activities.

On 11 June, President Lehne visited the ELI Secretariat in Vienna (Austria), so as to resume talks with President Wendehorst. A significant part of the brief meeting was dedicated to current and prospective ELI projects in the area of digitalisation. See page 1 for Lehne's contribution in the form of a cover to this edition of the ELI's newsletter.



ECA President Lehne and ELI President Wendehorst

### **ELI Vice-President van Erp at the ALPS Annual Meeting in Maastricht (The Netherlands)**

From 31 May–2 June 2018, the 9th Annual Meeting of the Association for Law, Property & Society (ALPS) took place in Maastricht (The Netherlands) and was chaired by ELI Vice-President Sjef van Erp. The ALPS's Annual Meeting brings together scholars from different disciplines to discuss their work and to foster dialogue among those working in property law, policy, planning, social scientific field studies, modelling and theory.

### **ELI Vice-President van Erp Leads a Workshop on Blockchain/Smart Contracts in Maastricht (The Netherlands)**

On 14 June 2018, ELI Vice-President Sjef van Erp led a workshop on blockchain/smart contracts at Maastricht University (The Netherlands). The aim of this workshop was to equip participants with sound knowledge on blockchain, distributed ledger technology and smart contracts and to provide practical guidelines on how to identify specific data protection compliance aspects, risks and to demonstrate accountability under the EU General Data Protection Regulation (GDPR) in the context of blockchain/smart contracts.

### **ELI President Wendehorst at the FRA in Vienna (Austria)**

On 19 June, the FRA hosted a joint event with the European Commission on Post-Brexit Police and Judicial Cooperation in Criminal Matters. Amongst the participants to the Conference was ELI President Christiane Wendehorst. Esteemed guests were welcomed to the premises of the FRA by Director Michael O'Flaherty. He was followed by Michel Barnier, European Commission's Chief Negotiator for article 50 negotiations with the United Kingdom, who delivered the opening speech before a panel discussion with high-level experts including the FRA's Director and a representative of the Austrian Presidency of the European Union took place. Guy Verhofstadt, Brexit Coordinator for the European Parliament, delivered the closing statement.

### **Visit from a Chinese Delegation at the ELI Secretariat in Vienna (Austria)**

On 20 June 2018, a delegation of six procurators from Tianjin (China) visited the ELI Secretariat in Vienna and were received by ELI Secretary General, Vanessa Wilcox. Wilcox welcomed the delegation, composed of a director, a prosecutor general, three chief prosecutors and a deputy prosecutor of the Tianjin People's Procuratorate to the ELI. She elaborated on the Institute's goals and structure and explained the progress it has made in the seven years since its founding. In outlining its past and current projects, Wilcox emphasised the importance of vocational and geographical diversity in the formation of project teams and the need for all ELI output to

be of practical application and significance. She also briefly touched on the functions of ELI Hubs and SIGs. The delegation were particularly impressed by the ELI's ambitious role in contributing towards the advancement of laws of such varied nations within Europe and the activities of the ELI in general.

### **ELI Vice-President van Erp at the Trans Europe Experts Annual Meeting in Paris (France)**

On 25 June 2018, ELI Vice-President Sjef van Erp took part in the General Assembly of Trans Europe Experts (TEE), which was held in Paris, during which Bénédicte Fauvarque-Cosson, former Vice-President of the ELI, announced her resignation as TEE President. She was succeeded by Fabienne Jault and Sophie Robin-Olivier as Co-Presidents. During the meeting, various TEE projects and events were discussed, including the Annual Forum in March, co-organised with the ELI. The ELI would like to thank Bénédicte Fauvarque-Cosson for her enduring support. The ELI also looks forward to future fruitful

## **New ELI Institutional Observer**

### **European Law Students' Association (ELSA) Austria**

ELSA was founded in 1981 by five law students from Austria, Hungary, Poland and West Germany. The organisation is the world's largest independent law students association, represented at nearly 350 faculties across Europe with 50,000 members. ELSA is an international, independent, non-political and non profit-making organisation. It is entirely run by law students and recent graduates with an interest in academic as well as personal excellence in addition to their legal studies. The association's patron (since February 2013) has been Thorbjørn Jagland, Secretary General of the Council of Europe. ELSA's vision is 'a just world in which there is respect for human dignity and cultural diversity'. Its purpose is 'to contribute to legal education, to foster mutual understanding and to promote the social responsibility of law students and young lawyers'. ELSA seeks to achieve this vision and purpose by providing opportunities for law students and young lawyers to learn about other cultures and legal systems in a spirit of critical dialogue and scientific co-operation; It does this by assisting law students and young lawyers to be internationally minded and professionally skilled; and finally, by encouraging law students and

cooperations with the two new Co-Presidents. Future cooperation between TEE and the ELI in the area of legal aspects of blockchain technology, smart contracts and Internet of Things were also featured in discussions.

### **ELI President at an Expert Group Meeting in Brussels (Belgium)**

On 26 and 27 June 2018, ELI President Wendehorst attended the first meeting of the Expert Group on Liability and New Technologies/New Technologies Formation of the European Commission (EC). This group is co-managed by the Directorate-General for Justice and Consumers, Directorate-General for Internal Market, Industry, Entrepreneurship and Small and Medium-sized Enterprises (SMEs) and the Directorate-General for Communications, Networks, Content and Technology.

The main tasks of the Group is to provide the European Commission with expertise on liability issues raised by new technologies, such as Artificial Intelligence (AI), robotics or the Internet of Things (IoT).

young lawyers to act for the good of society. Each local or national group creates its own plan of operation in accordance with the overall aims of the association. These groups recruit and train their volunteer executives and market ELSA's programmes to both academic and business platforms, as well as preparing members for their future professional life. ELSA has gained consultative status with several of UN bodies including in Category C of the United Nations Educational, Scientific and Cultural Organization (UNESCO) (1994), with the United Nations Economic and Social Council (ECOSOC) (1997) and the United Nations Commission on International Trade Law (UNCITRAL) has invited the student association to participate in some of their sessions. The association was also granted Participatory Status with the Council of Europe in 2000 and a Human Rights Partnership was signed between the two in 2008, further widening the cooperation between ELSA and the Council of Europe. 10,000 copies of its biannual publication, Synergy (first published in 1987), have been printed and distributed throughout the ELSA network. Synergy contains articles written by members, academics and institutions.

## Upcoming Events: SAVE THE DATE!

- 3 July 2018**  
[ELI-UNIDROIT Working Group on Costs Meeting in Vienna \(Austria\)](#)
- 5 July 2018**  
[Conference on Best Practices in European Restructuring in Brussels \(Belgium\)](#)
- 5–6 July 2018**  
[Digital Law SIG Conference in Ferrara \(Italy\)](#)
- 18 July 2018**  
[Lecture as part of the Law and Empire Course of the University of Vienna \(Austria\)](#)
- 5–7 September 2018**  
[2018 ELI Annual Conference and General Assembly in Riga \(Latvia\)](#)
- 7 September 2018**  
[Draft Model Rules on Online Intermediary Platforms Project Meeting in Riga \(Latvia\)](#)
- 8 September 2018**  
[Principles for a Data Economy Project Meeting in Riga \(Latvia\)](#)
- 12–14 September 2018**  
[Presentation of the ELI Statement on Detention of Asylum Seekers and Irregular Migrants and the Rule of Law in Catania \(Sicily\)](#)
- 14 September 2018**  
[Launch of the Hungarian Hub in Budapest \(Hungary\)](#)
- 26 October 2018**  
[Principles for a Data Economy Project Meeting in Philadelphia \(USA\)](#)
- 9 November 2018**  
[Dispute Resolution: Beyond the Courts Conference in Trier \(Germany\)](#)
- 22–23 November 2018**  
[4th Spanish-German Hub Meeting in Münster \(Germany\)](#)
- 26–27 November 2018**  
[ELI-UNIDROIT Conference at the Academy of European Law \(ERA\) in Trier \(Germany\)](#)
- 21–22 February 2019**  
[Principles for a Data Economy Project Meeting in New York \(USA\)](#)

# 2018 Annual Conference and General Assembly Riga (Latvia) from 5-7 September



[Agenda](#)

[Registration](#)

[Hotels](#)

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## The ELI's Mission

Building on the wealth of diverse legal traditions, the European Law Institute's mission is the quest for better law-making in Europe and the enhancement of European legal integration. By its endeavours, the ELI seeks to contribute to the formation of a more vigorous European legal community, integrating the achievements of the various legal cultures, endorsing the value of comparative knowledge, and taking a genuinely pan-European perspective.

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