



ELI  
EUROPEAN  
LAW  
INSTITUTE

# Newsletter

Bringing Legal Experts Together



Cover Letter by Sebastian Schütze, Rector of the University of Vienna

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Spotlight by Minesh Tanna, Partner at Simmons & Simmons

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# Cover by Sebastian Schütze

Rector of the University of Vienna

## **What is your interim assessment after your first year of office as Rector of the University of Vienna and how does it correlate to your vision of UW's future?**

The first year in office was a year with many challenges because the world as a whole was faced with multiple challenges and crises, such as the climate crisis, digital transformation and AI, or geopolitical events such as the war in Ukraine or the recent terrorist attacks in Israel.

These challenges affected universities in many different ways, but also underlined that we have a particular responsibility, which is not just to find solutions through technological innovation, but also to analyse and critically evaluate the radical transformations our societies face in social, economic and cultural terms.

Universities are a point of stability and orientation, especially for young people, and have to convey to them both the skills and the confidence needed to become part of the solution. It is important that we insist on our fundamental role in teaching

and research, but also, more broadly speaking, strengthen our role in society as a leading educational institution in Austria, as a reliable source for fact-based knowledge and as guidance for the future. Universities should educate responsible citizens and prepare them for challenging times ahead.

## **In an ever-evolving world like ours, what growth potential do you see for universities and their partners such as ELI in the years to come?**

Growth in terms of the University means to grow beyond its previous achievements, become better, more efficient and serve society in more tangible ways. Today's society needs, more than ever, technological innovation and research, but also scientifically based directions and support, since a lot of current debates tend to be based on ideologies rather than well researched facts and figures.

The same principles apply to ELI; with its many research projects and its important efforts to develop the European legal landscape, ELI is building bridges between different legal cultures and brings theoretical

discourse and legal practise together. This will remain a grand challenge in the future and is urgently needed to improve and modernise European law as a whole, since legislation remains the backbone of our democratic societies.

## **ELI has accomplished a lot in the last 12 years; what in your view are the greatest challenges that lie ahead of ELI in the future?**

Human rights, such as freedom of speech or the role of press and media, are, even in Europe, under constant threat and need to be defended and in some cases redefined, for example in the face of social media and AI and their impact on society.

The challenges ahead of ELI really lie in continuing the work, which it has done so successfully in the past, but also in readapting and redefining legal cultures to the many new challenges which we are facing today.

It is imperative to continue to build bridges, to foster a culture of dialogue and debate and to safeguard fundamental values such as equality, the right to free speech or free press.

## The Author

**Sebastian Schütze** has been the Rector of the University of Vienna since 2022. He held significant academic positions at Freie Universität Berlin, Bibliotheca Hertziana in Rome, and Queen's University in Kingston, Canada. Since 2009, he has been a Professor of Modern Art History at the University of Vienna and became the Dean of the Faculty of Historical and Culture Studies in 2018. Schütze is a full member of the Austrian Academy of Sciences. His research mainly focuses on Italian art and cultural history, collections in Vienna and Central Europe, and the connections between literature and visual arts. He is particularly committed to sharing his research findings with a wider audience, including through international exhibitions.



**One of ELI's latest projects revolves around the access to digital assets. NFTs (Non Fungible Tokens) are a type of digital asset. Do you see a future for NFTs as a medium in the art world?**

This is a kind of controversial topic; when NFTs first appeared in the art world they were described as the ultimate revolution, but recently, especially in 2022 and 2023, we have

seen a sharp decline in the NFT market.

This is due to broader economic developments, but it also has to do with inherent issues with NFTs as artworks or as an instrument for the art market. They have been, for example, massively criticized for the energy costs and the huge carbon footprint they produce.

As an art historian I also see this topic from a more philosophical point of

view, mainly regarding the definition of what an artwork can and should be and fundamental issues such as artistic creativity and authorship.

Personally, I think NFTs do not respond convincingly to those issues and I find more interesting solutions in other forms of digital and media art.

## On the Interim Report on Guiding Principles and Model Rules on Algorithmic Contracts

By Minesh Tanna, Partner at Simmons & Simmons

### Introduction

'Alexa, we need more coffee.' This seemingly innocuous statement to a digital assistant encapsulates an eminent future where AI-driven tools will not only provide us with information and entertainment, but also take actions and make decisions on our behalf. As these digital assistants become increasingly sophisticated and integrated into our daily lives, including connecting to digital services such as online shopping, they will usher in a new era of challenges in consumer law.

### The AI Decision-Making Paradigm

In the evolving world of AI-assisted living, scenarios where digital assistants autonomously make purchasing decisions will become more common, presenting challenges. Consider a digital assistant set to reorder household items; it mistakenly purchases an excessive amount of coffee due to a misinterpreted user statement. Naturally, the consumer, confronted

with this unintended order, refuses to pay, leading to potential conflicts. Similarly, consider an assistant ordering coffee close to its expiry date, yet the supplier declines a refund due to the assistant's failure to consider this fact.

These challenges blur the lines of accountability and decision-making in AI-consumer interactions, challenging existing legal frameworks. A critical issue is determining the extent to which a digital assistant can establish rights and obligations on behalf of the consumer and how these can be protected and enforced considering their origins.

This issue is not entirely new. The law of agency, for example, addresses similar situations. However, the complexity and opacity of the technologies behind digital assistants, which increasingly operate autonomously, present unique challenges. These challenges within consumer law must be properly evaluated and navigated to safeguard consumer rights in this new digital era.

### Challenges in the Use of Digital Assistants

Numerous challenges arise when digital assistants engage in legally binding transactions on behalf of consumers. A key practical challenge is whether these assistants accurately interpret human instructions for decision-making. The subtleties of human language, filled with implicit meanings and unspoken understandings, often gets lost in translation when processed by AI. While AI systems may improve in understanding nuances in the future, at this stage, the quest for automated convenience is likely to trigger numerous practical and legal issues.

Another issue concerns transparency and disclosure. If the practical and legal landscape are to accommodate the use of digital assistants, requirements for disclosing the involvement of a digital assistant should be in place. This could eventually be facilitated through technological means. As another illustrative challenge, pre-contractual

# On the Interim Report on Guiding Principles and Model Rules on Algorithmic Contracts

By Minesh Tanna, Partner at Simmons & Simmons

information plays a crucial role in consumer transactions.

There is a significant risk that digital assistants may not fully appreciate specific information provided by the supplier, including terms and conditions, prior to entering into these transactions. This raises the important issue of informed consent in consumer contracts, requiring a re-evaluation of obtaining and validating consumer consent in the digital age.

## Legal Landscape

A number of these challenges relate to the core issue of attribution – namely, to what extent a digital assistant can establish rights and obligations on behalf of the consumer. This creates uncertainties in applying consumer law, likely leading to generate disputes around the application of contractual terms, enforcement of contractual obligations and rights of redress.

Consumer law, both in the EU and beyond, will need careful evaluation

and amendment to accommodate the new paradigm of AI-decision-making in consumer contracts.

Given the extensive adoption of AI (particularly in light of the recent generative AI revolution) and rapid technological advancement, this process cannot start soon enough. It is vital that the law keeps pace with technology's use and development, especially in the realm of consumer protection.

In this regard, the [ELI Project on Guiding Principles and Model Rules on Algorithmic Contracts](#) serves an important purpose. The project aims to assess the adequacy of existing EU consumer law in the context of 'automated decision-making' (ADM) in contracts and identify necessary legal steps to facilitate autonomous contracting in transactions, including in consumer contracts. The publication of the [ELI Interim Report on Guiding Principles and Model Rules for the use of ADM](#) (see further below) in contractual relationships will be a valuable contribution in this important field.

## Conclusion

As we move towards a future where digital assistants increasingly enter into transactions on behalf of consumers, the law must stand ready to adapt to this new reality. Whilst AI offers convenience and efficiency, it also presents challenges and complex legal questions that require answers. Understanding and addressing these challenges are pivotal to ensuring a robust consumer law in the AI age.

## The Author

**Minesh Tanna** is a Partner and the Global AI Lead at the international law firm, Simmons & Simmons. He is also an Advisory Committee Member on the ELI Project on Guiding Principles and Model Rules on Algorithmic Contracts. Minesh is Chair of the Society for Computers and Law (SCL) AI Group, and Chair of the City of London Law Society (CLLS) AI Committee.

The author wishes to thank Ali Choudhry, Innovation Team Intern at Simmons & Simmons and Doctoral Researcher at Royal Holloway, for contributions to this article.



# Updates on ELI Representation

Below is an overview of representational activities that took place in November and December 2023.



## ELI Secretariat Hosts China Delegation on ELI's E-Evidence Proposal

2 November 2023

A Chinese delegation visited the ELI Secretariat to learn about ELI and its Proposal on Mutual Admissibility of Evidence in Criminal Proceedings. More [here](#).



## ELI President Congratulated Nancy Pelosi on Her Honorary Doctorate

6 November 2023

ELI President discussed ELI's commitment to the rule of law and democratic values with the Speaker Emerita of the US House of Representatives. More [here](#).



The European Law Students' Association

## ELI President Spotlights Opportunities for ELSA Members

7 November 2023

President Pichonnaz informed the audience of aspiring young legal professionals about ELI and its ELI's Young Lawyer Awards. More [here](#)



## ELI President Speaks at a Course Run by the EJTN

17 November 2023

ELI President addressed EJTN course attendees, emphasising ELI's focus on Law and Governance for the Digital Age. More [here](#).



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

## ELI President Joins Advisory Board Digital Switzerland Strategy for 2023

20 November 2023

ELI President advocated an adaptable legal framework to Swiss officials overseeing the Digital Switzerland Strategy for 2023. More [here](#).



## ELI Secretariat Hosts STGM Delegation

22 November 2023

ELI's Secretary General, Dr Vanessa Wilcox, welcomed the delegation of 13 members of Turkey's Civil Society Development Center (STGM). More [here](#).



## ELI Pleased to Join the UIHJ as a Permanent Observer

23 November 2023

ELI's President addressed UIHJ members as part of talks leading to ELI's observership in the UIHJ. More [here](#).



# Updates on ELI Representation

Below is an overview of representational activities that took place in November and December 2023.



The European Law Students' Association

SWITZERLAND

## ELI President Joins Advisory Board Digital Switzerland Strategy for 2023

27 November 2023

President Pichonnaz spotlighted ELI's dedication to advancing European legal frameworks on a global scale and also briefed the audience about ELI's Young Lawyers Award. More [here](#).



## ELI President gives keynote for 20th Anniversary of European Law Studies Institute

1 December 2023

The speech highlighted how European digital contract law shapes domestic legal systems, praising the Institute's two decades of legal advancements and collaboration with ELI. More [here](#).



## ELI Featured in Dalloz

11 December 2023

ELI is thankful to the ELI French Hub for their work in featuring it in a series of Dalloz interviews. More [here](#).



## ELI Secretary General Welcomes Delegation from TSNUK

15 December 2023

Secretary General Wilcox briefed a group of six representatives from Taras Shevchenko National University of Kyiv about ELI. More [here](#).



Die Österreichischen  
Rechtsanwältinnen  
und Rechtsanwälte

## ELI President Meets President of the Austrian Bar

18 December 2023

ELI President and Dr Armenak Utudjian reflected on the impact on AI in the lawyers' everyday lives, in addition to exploring synergies for further cooperation. More [here](#).



## ELI President and Judge Pierpaolo Gori of the Italian Supreme Court Meet

18 December 2023

The discussion between ELI President and Judge Gori centered on recent advancements in digitalising justice systems. More [here](#).



## ELI Represented at the 63rd Session of UNCITRAL Working Group V on Insolvency Law

20 December 2023

Professor Stephan Madaus represented ELI on the above occasion. More [here](#).



# Updates on ELI Projects

## ELI published an Interim Report on EU Consumer Law and Automated Decision-Making

**ELI Provides Framework on the Use of Automated Decision making in B2C Context with eight general principles that should guide the adaptation of existing EU consumer law to ADM. It also reviews the ADM-readiness of key EU consumer law directives for the conclusion of contracts through the use of AI by consumers and/or traders, with recommendations for clarifications and additions to improve their ADM-readiness.**

In recent years, rapid advances in a variety of digital technologies, including AI, can be observed. This technological evolution requires a continuous evaluation of whether existing laws can address all the issues created by the deployment of such technologies in context.

The [ELI Interim Report](#) explores how well the EU consumer law acquis would cope with the widespread use of ADM. In carrying out this assessment, the focus lies on how EU consumer law can continue to ensure adequate consumer protection in an economy where digital assistants become more prevalent (the protective function of EU consumer law), whilst enabling the use of innovative technologies in consumer markets (the enabling function of EU consumer law).

The ELI project is led by Co-Reporters Prof Dr Christoph Busch, Associate Prof Dr Marie Jull Sørensen, Prof Dr Teresa Rodríguez de las Heras Ballell, Prof Dr Dariusz Szostek (until October 2023) and Prof Dr Christian Twigg-Flesner. The Co-Reporters commented that:

As AI-driven digital assistants start to emerge, the recommendations in this Report will keep EU consumer law current and minimise the gap between law and technological evolution. In checking the ADM-readiness of EU consumer law, we have not only reviewed the application of current legal rules, but also

whether both the rationale and core features of EU consumer law are sufficiently future-proof. There are other important challenges of AI-driven contracting outside the scope of current EU consumer law, which will be analysed in a second phase of this project and will lead to further recommendations for a world of regular algorithmic contracting.

The ELI Interim Report sets out eight Principles that should be followed in order to make EU consumer law 'ADM ready'.

The Report also considers how several key EU consumer law directives would operate in situations where a consumer deployed a digital assistant, and several recommendations are made for modifying those directives to facilitate the use of digital assistants. It concludes that all the directives under consideration are almost 'ADM ready' and require mostly minor adjustments to remove any potential legal obstacles.

It additionally recommends the adoption of a small number of new provisions to align existing law with the eight ELI Principles.

The full ELI Report, which is an interim aspect of the ELI project on Guiding Principles and Model Rules on Algorithmic Contracts, is available [here](#). More information about the project can be found [here](#).

**Principle 1:**  
**Atribution of digital assistant's actions to consumer**

**Principle 2:**  
**Application of consumer law to algorithmic contracts**

**Principle 3:**  
**Pre-contractual information duties**

**Principle 4:**  
**Non-discrimination/no barrier principles**

**Principle 5:**  
**Discloure of use of digital assistant**

**Principle 6:**  
**Protection of digital assistant from manipulation**

**Principle 7:**  
**Ability to determine parameters/disclosure of pre-set parameters**

**Principle 8:**  
**Digital assistants and conflicts of interest**

# Updates on ELI Projects

## ELI High Level Forum on Guiding Principles on Implementing Workers' Right to Disconnect

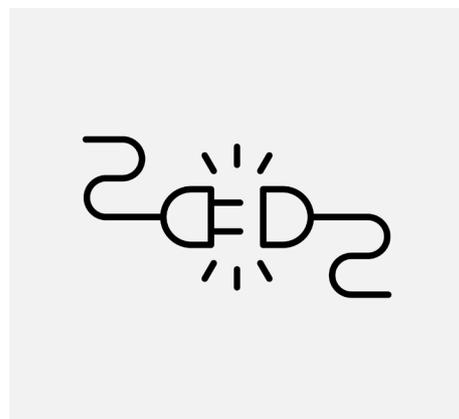
**On 18 December, ELI hosted a High Level Forum on the recently published Guiding Principles on Implementing Workers' Right to Disconnect.**

The High-Level Forum provided a platform for the discussion of ELI's recently published [Guiding Principles on Implementing Workers' Right to Disconnect](#).

The event, opened by ELI President Prof Dr Pascal Pichonnaz and Deputy Director-General DG Employment, Social Affairs and Inclusion, Stefan Olsson, brought together representatives of 18 Ministries of Justice in Europe as well as members of supreme courts and international labor law organisations. In all, 40 participants were present.

Among other things, Olsson mentioned that the Commission 'always values the work of ELI'. He added that ELI's 10 Guiding principles will be very important in the Commission's future work in the field and went on to thank ELI for its work. Other Participants also echoed support for the ELI Principles, recognising their potential to effectively guide legislators and social partners.

ELI would like to express its gratitude to the Reporters of the above ELI Proposal, Professor Karine Lempen and Professor Luca Ratti. More [here](#).



## Inaugural Webinar of Joint American Law Institute-ELI Series Principles for a Data Economy: A New Framework for Innovation and Growth.

**On 5 December, ALI and ELI jointly hosted their inaugural webinar on the impact the groundbreaking ALI-ELI Principles for a Data Economy.**

The webinar took place on the occasion of the ALI-ELI Principles for a Data Economy print publication. The Principles can be pre-ordered [here](#).

It was opened by ELI President, Pascal Pichonnaz, and ALI President, David F Levi. Among other things, President Levi remarked how the project has not only accomplished its goal but exceeded them in the quality and clarity of the final product, while President Pichonnaz invited participants to join subsequent webinars in the series in the course of 2024, including on Automated Decision-Making and Consumer Law, Third Party Funding of Litigation and the Digitalisation of Justice Systems.

Throughout the webinar, which was chaired by Project Chairs Steve O Weise and Lord John Thomas, videos from experts that collaborated on producing ALI's and ELI's global Principles were featured. Contributions were interspersed with responses from the project's Reporters, Neil B Cohen and Christiane Wendehorst.

UNCITRAL, American Express, European Commission and Data Governance within the Global Partnership of Artificial Intelligence representatives praised the Principles for impacting global discussions and acknowledged their adaptability across various jurisdictions. More [here](#).



# Updates on ELI Projects

The following events took place in November and December 2023.

## Enterprise Foundations in Europe

### 7 November, Meeting

The ELI Project's Co-Reporters met DG GROW representatives to discuss challenges faced by European enterprise foundations as well as DG GROW's role as an Observer in the ELI Project. More [here](#).

## Digital Assets, Data and other Digital Remains

### 11 November, Kick-Off Meeting

The Project team and other members convened online for the first time to outline the report's scope and distribute work packages.

More [here](#).

## Advance Choices for Future Disablement

### 13 November, Conference

The Project was showcased at the Alzheimer's Association Academy virtual event. It gained notable attention for its relevance and value, evident from event feedback. More [here](#).

## Implementing Workers' Right to Disconnect

### 13 November, Webinar

The webinar aimed at disseminating the recently published Report. The ILO, European Commission and Council of the EU recognised the guidelines' significance in future legislative discussions. More [here](#).

## Algorithmic Contracts

### 14 November, Meeting

The Project team met with representatives of the European Commission's DG JUST and Joint Research Centre (JRC) to discuss their ongoing work and potential collaborations in the field. More [here](#).

## Advance Choices for Future Disablement

### 24 November, Conference

Co-Reporter Adrian Ward presented the ELI project at the Family Law in Europe: Academic Network's (FL-EUR) Conference on European Pathways for Supporting and Protecting Adults. More [here](#).

## Third Party Funding of Litigation

### 5 December, Team Meeting

The Project Team convened online with its Advisory Committee to discuss the latest draft and gather feedback. The project aims at completion by September 2024. More [here](#).

## Digitalisation of Civil Justice Systems in Europe

### 5 December, Conference

The Project was presented at the Riga Regional Court's Annual Conference, highlighting its background, objectives, and expected outcomes. More [here](#).

## Enterprise Foundations in Europe

### 5 December, Workshop

The project workshop took place Copenhagen and was attended by the Project Team, Reports, Project Assistant and ELI's First Vice-President, among others. More [here](#).

## ELI Proposal on (Electronic) Evidence

### 21 November, Recognition

Three recent articles highlight ELI's Proposal. More [here](#).

## Implementing Workers' Right to Disconnect

### 6 November, Impact

Swiss media acknowledged ELI's work in an interview with the Project's Co-Reporter. The article explores the application of ELI's Principles in a Swiss context. More [here](#).

# ELI Welcomes New Members

ELI is pleased to welcome the following Institutional and Individual Members.



## New Institutional Members

### Georgian Lawyers for Independent Profession (GLIP)

Established in 2009, 'Georgian Lawyers for Independent Profession' (GLIP) is dedicated to boosting public confidence in the legal profession. Over the years, the organisation has conducted various educational events and organised diverse activities aimed at improving legal education and the qualifications of lawyers and the judiciary.

GLIP was established in response to challenges confronting the legal profession, including a perceived weakness in the role of lawyers in the administration of justice and a lack of understanding of their functions. As a result, public trust in lawyers was low, and there was limited progress in both the legal education system and ongoing educational programs for lawyers.

Since its inception, GLIP has completed 128 projects, and its members have drafted 340 reports for conferences, symposia, workshops, and seminars. Notably, members contribute pro bono services, providing legal support to hundreds of individuals in need throughout Georgia.

## New Sustaining Members

- Ebolor Alexander**, Martin-Luther-University Halle-Wittenberg in Germany
- Calboli Irene**, Texas A&M University School of Law in the United States of America
- Hundahl Hansen Marianne**, Aalborg University in Denmark
- Koch Sören**, University of Bergen in Germany
- Ryabtsev Kirill Alexandrovich**, Vrije Universiteit Amsterdam in the Netherlands

## New Individual Members

- Muñoz Alfredo**, Complutense University of Madrid in Spain
- Cihan Ali Hulki**, University of Alicante in Spain
- Yurtsever Ali Sina**, ASY LEGAL Law Firm in Turkey
- Gómez Adeva Ana**, Bocconi University in Italy
- Buchta Anna**, European Data Protection Supervisor in Belgium
- Sanders Anne**, Bielefeld University in Germany
- Eigenmann Antoine**, in Switzerland
- Wudarski Arkadiusz**, University of Szczecin in Germany
- Bulica Blerina**, Support for Efficiency of Justice (SEJ) Program in the Council of Europe Office in Albania
- Serranò Carlo**, Bocconi University in Italy
- Cunha Carolina**, University of Coimbra in Portugal
- Octavian Cazac**, Moldova State University in Moldova
- Pellegrini Cécile**, Lyon Catholic University in France
- Tamm Ditlev**, University of Copenhagen in Denmark
- Reiling Dory**, Judiciary in the Netherlands
- Harbinja Edina**, Aston University in the United Kingdom
- Stabile Emanuele**, Lawyer and PhD candidate in Italy

# ELI Welcomes New Members

ELI is pleased to welcome the following Institutional and Individual Members.



**Sacchetto Ernestina**, University of Turin in Italy

**Schaller Fabienne**, Paris Court of Appeal; International Commercial Chamber ICCP-CA in France

**Nicolicchia Fabio**, University of Ferrara in Italy

**El-Kabashi Ibrahim Fatin**, World Bank; International Finance Corporation (IFC) in the United States of America

**Molinié Francois**, Court of Cassation in France

**Wedy Gabriel**, TRF4/Unisinos in Brazil

**Noto La Diega Guido**, University of Stirling in the United Kingdom

**Gonul Kosar Gunhan**, Hacettepe University in Turkey

**De Wulf Hans**, Ghent University in Belgium

**Mitchell KC Iain**, in the United Kingdom

**Marije Lambers Ilse**, University of Groningen in the Netherlands

**Calboli Irene**, Texas A&M University School of Law in the United States of America

**Yurkevych Iryna**, West Ukrainian National University in Ukraine

**Exner Jan**, Danish Court Administration in Denmark

**Phillips Julian**, Immigration and Asylum Chamber in the United Kingdom

**Mehtiyeva Kamalia**, Paris-Est Creteil University in France

**Alexander Kern**, Cour de Cassation in France

**Vaige Laima**, Uppsala University in Sweden

**Didžiulis Laurynas**, Vilnius University in Turkey

**Noto Lavinia**, Università Bocconi Milan in Italy

**Bygrave Lee Andrew**, University of Oslo in Norway

**Gagliardi Lorenzo**, University of Milan in Italy

**Ginestri Maddalena**, Charles University in Czech Republic

**Węgrzak Małgorzata**, University of Gdańsk and Gdańsk Bar Association of Attorneys at Law in Poland

**Anjos Maria do Rosário**, Lusófona University in Portugal

**Eckhardt Merethe**, Vilnius University in Lithuania

**Callegari Mia**, University of Turin in Italy

**Wood Philip**, Self-employed Author in the United Kingdom

**Ceesay né Scholz Philipp**, Max Planck Institute for Comparative and International Private Law in Germany

**Prista Patrício Cascão Rui Miguel**, Lusófona University in Portugal

**González Hernández Rut**, Complutense University of Madrid in Spain

**Iglesias Sánchez Sara**, Public Corporation of Property Rights and Commerce Registrars of Spain in Spain

**Steen Thomsen**, Copenhagen Business School in Denmark

**Kass-Danno Stéphanie**, Complutense University of Madrid in Spain

**Neumann Thomas**, Aalborg University in Denmark

**Odlöv Torbjörn**, University of Gothenburg in Sweden

**Breemhaar Willem**, Keystone Law in England

**Geelhoed Willem**, University of Groningen in the Netherlands

**Van Veen Wino**, Vrije Universiteit Amsterdam in the Netherlands

**Bustos Moreno Yolanda**, University of Amsterdam and Court of Appeal Arnhem-Leeuwarden in the Netherlands

**Bolwig Zena**, LKeystone Law in England

# Updates on ELI Hub and SIG Activities

The following events took place in November and December 2023.

## ELI Austrian Hub

The Hub hosted an Evening Lecture presenting 'Outside In - The Oral History of Guido Calabresi' with joint presentations by Judge Calabresi and Prof Silver on December 8. More [here](#).

## ELI Croatian Hub

At the 29th Webinar held on 14 November 2023, the theme was 'Class Actions in the UK and Ireland: A Tale of Two Common Laws Diverging Post-Brexit'. More [here](#).

## ELI Spanish Hub

The webinar of 18 November focused on Artificial Intelligence and the new uncertainties around its regulation. More [here](#).

## ELI Austrian Hub

On 27 November, the Hub supported a Seminar Series on Current Issues in Private Business Law. The 164th seminar featured a lecture on 'Reviewing Cartel Arbitration Rulings Based on Public Order'. More [here](#).

## ELI Austrian Hub

The lecture delved into the correlation between EU Crowdfunding Regulation and Consumer Law on 7 December. More [here](#).

## ELI Turkish Hub

The Hub held a webinar on the ELI Report on Freedom of Expression in Europe's constitutional tradition on 28 December. More [here](#).

## Fundamental Rights Law SIG

The SIG and American Constitution Society (ACS) organised a discussion with a former US Senator and ACS President on 8 December. More [here](#).

## ELI Family Law SIG

A webinar discussing the changing landscape of family law, featuring prominent legal experts was hosted on 16 November. More [here](#).

## ELI Intellectual Property Law SIG

On 26 November, an in-depth conversation took place on the Czech Supreme Court's influential ruling concerning the liability of hosting service operators. More [here](#).

## ELI Turkish Hub

On 5 December 2023, the Hub organised a webinar focusing on the ELI Report on the Protection of Adults in International Situations as part of an ongoing series. More [here](#).

## ELI Austrian Hub

The Hub supported a Seminar Series addressing present matters in Private Business Law. 'VW and No End in Sight: Damage Calculation Quo Vadis?' was the topic of discussion on 11 December. More [here](#).

## ELI Austrian Hub

A Symposium entitled 'Evergreens between Medicine, Law, and Ethics' was held in honor of Erwin Bernat on 10 November. More [here](#).

## ELI Family Law SIG

A hybrid event focused on the interplay between reproductive technologies and filiation took place on 16 November. More [here](#).

## ELI Spanish Hub

The Hub supported a workshop on Gender in the Law on 27 November. More [here](#).

## ELI Digital Law SIG

The SIG, with UC Berkeley, hosted its first webinar on Consumer Law to advocate market fairness on 7 December. More [here](#).

## ELI Croatian Hub

The 20th webinar in its series, which took place on 12 December 2023, featured a lecture on the impact of Artificial Intelligence on copyright laws. More [here](#).

## Upcoming Baltic Hub

The above Hub is expected to launch in early 2024. ELI members from the Baltic region are invited to contact Anna Skrbjina [skrbjina.anna@gmail.com](mailto:skrbjina.anna@gmail.com) for more information.

# Retrospective on 2023

By ELI President, Prof Dr Pascal Pichonnaz

As we round out another year at ELI, I would like to take stock of 2023, which will soon be behind us and to look to 2024 with confidence and enthusiasm.

After two years as President, I sought reappointment and took office for a second term until fall 2025. I feel very honoured for the trust given to me by the ELI Council, but also conscious of the enormous task of leading our Institute.

This is why I was pleased to embark on this renewed journey in September 2023 with six other members of the Executive: Anne Birgitte Gammeljord (now 1st Vice-President), Prof Dr Pietro Sirena (re-elected Treasurer), Prof Dr Teresa Rodrigues de las Herras Ballel and Dr Aneta Wiewiórowska-Domagalska. Sir Geoffrey Vos (Master of the Rolls and Head of Civil Justice in England and Wales), who was elected 2nd Vice-President, and Judge Sylvaine Peruzzetto-Poillot of the Cour de Cassation of France, both of whom have been vocal in the past on the future of law in a changing landscape, bring fresh perspectives to the table.

Let me record my gratitude once again both to former Lord Chief Justice of England and Wales, Lord John Thomas, ELI's former 1st Vice-President, and to the administratrice générale of the Conservatory of Arts and Crafts (CNAM), Prof Dr Bénédicte Fauvarque-Cosson, for their services in advancing our shared goals. Both stepped down in September 2023, after having infused ideas during their term in the Executive and in different capacities since ELI's establishment.

Turning to our achievements, in 2023, ELI published six projects and responded to two Commission consultations. Five new projects already took off in 2023.

## Projects Published in 2023

Rule of Law and the Convergence of Legal Systems in the 21st Century

- [ELI Proposal for a Directive of the European Parliament and the Council on Mutual Admissibility of Evidence and Electronic Evidence](#)

[in Criminal Proceedings](#)

Law and Governance for the Digital Age

- [ELI Interim Report on EU Consumer Law and Automated Decision-Making: Is EU Consumer Law Ready for ADM? \(2023\)](#)
- [ELI Guiding Principles on Implementing Workers' Right to Disconnect](#)
- [ELI Principles on Blockchain Technology, Smart Contracts and Consumer Protection](#)

Sustainable Life and Society

- [ELI Report on Ecocide](#)
- [ELI Guidance on Company Capital and Financial Accounting for Corporate Sustainability](#)

Responses to European Commission Public Consultations

- [Feedback on the European Commission's Proposal for a Directive on Common Rules](#)

## 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).



# Retrospective on 2023

By ELI President, Prof Dr Pascal Pichonnaz

## Promoting the Repair of Goods

- [Response to the European Commission's Public Consultation on Digital Fairness – Fitness Check on EU Consumer Law](#)

## **High Level Fora in 2023**

Notable on the dissemination front is ELI's High Level Fora (HLF), which were launched in 2023. Three have been held to date, ensuring that ELI's output is not only circulated but is brought to the direct attention of lawmakers, policymakers and other important stakeholders working on the relevant files. To date, ELI's invitation-only HLF have brought together over 120 EU representatives, representatives of Ministries of Justice, other ministries depending on the project, as well as Supreme Courts across Europe and others.

- [Blockchain Technology, Smart Contracts and Consumer Protection](#)
- [Mutual Admissibility of Evidence and Electronic Evidence in Criminal Proceedings in the EU](#)
- [Implementing Workers' Right to Disconnect](#)

## **Translations**

Further, 10 translations were published or are underway this year, thanks among others to the work of our Turkish Hub.

## **Projects/Updates Launched in 2023**

- [Digitalisation of Civil Justice Systems in Europe](#)
- [Corporate Criminal Liability in the European Union](#)
- [Enterprise Foundations in Europe](#)
- [Foreseeable Amendments to the European Commission Proposal on the Recognition of Foreign Filiactions](#)
- [Model Rules on Succession of Digital Assets, Data and other Digital Remains](#)
- [Update of ELI's Detention of Asylum Seekers and Irregular Migrants and the Rule of Law: Checklists and European Standards](#)

On the project preparation phase, High Level Expert Group (HLEG) meetings have become blueprints for the identification of future themes.

Two HLEG meetings took place on Justice and Gender Discrimination at the beginning of the year. They were masterfully chaired by the Right Honourable Sue Lascelles Carr, Baroness Carr of Walton-on-the-Hill, DBE, PC, who assumed office as Lady Chief Justice of England and Wales on 1 October 2023, becoming the first woman to head the judiciary of England and Wales since the inception of the office in the 13th century. A prospective project on the Standard and Proof of Consent in Sexual Crimes is expected to be launched in 2024 as a result. Several other upcoming projects are soon to be launched.

## **Other Highlights**

Other developments in 2023 include the launch of [ELI Members' Day](#), which seeks to integrate the views of our Members in the identification of project topics, and ELI's first in-person [Annual Conference](#) in Vienna since the pandemic hit us.

Efforts have also been made to strengthen ties with ELI's Institutional Members and partners and I am particularly pleased to highlight the launch of the American Law Institute-European Law Institute joint webinar series, which kicked-off with an analysis of the impact of our joint project on the [Principles for a Data Economy](#).

In all, ELI hosted 14 webinars this year. Six of these were Kick-Off webinars, yet another initiative launched this year that has spurred the growth in the number of individuals joining [Members Consultative Committees](#) (MCCs). I encourage more of you to shape ELI projects by joining these MCCs.

I welcome the establishment of the Nordic and Portuguese Hubs in 2023, bringing the total to 16 and I congratulate the Austrian and Croatian Hubs as well as the Digital Law SIG once more for their success in being crowned Hubs and SIG of the year. My gratitude extends to all our groups for extending the reach of our work even further in 2023.

With the help of ELI's staff, our Secretary General and the Scientific Director, your Executive and I look forward to furthering ELI's causes in 2024..

The very best for 2024.

# General Programme Overview

## WEDNESDAY | 9 OCTOBER 2024

VENUE: KING'S INNS | Henrietta St, Dublin 1 | D01 KF59, Ireland

- 10:30–14:15 GMT     ELI Council Meeting
- 14:20–14:50 GMT     Kings Inn Tour
- 15:00–15:15 GMT     Welcome Addresses
- 15:15–16:15 GMT     Sixth Ole Lando Memorial Lecture, *'Travels with Ole: in search of Europe'*, Prof Dr Bénédicte Fauvarque-Cosson, General Administrator (administratrice générale), French National Conservatory of Arts and Crafts (CNAM)
- 19:30 GMT             Opening Reception and Presentation of the ELI Young Lawyers and Hub and SIG of the Year Awards  
[Venue: Law Society of Ireland | Blackhall Place | Dublin 7](#)

## THURSDAY | 10 OCTOBER 2024

VENUE: KING'S INN | Henrietta St, Dublin 1 | D01 KF59, Ireland

- 08:00–09:00 GMT     Sustaining Members Networking Breakfast  
[Venue: King's Inn](#)
- 09:30–11:00 GMT     **Panel 1:** Advance Choices for Future Disablement
- 11:00–11:30 GMT     Coffee Break
- 11:30–13:00 GMT     **Panel 2:** Enterprise Foundations in Europe
- 13:00–14:00 GMT     Lunch
- 14:00–15:30 GMT     Keynote: Síofra O'Leary, President of the European Court of Human Rights
- 15:30–16:00 GMT     Coffee Break
- 16:00–17:30 GMT     **Panel 3:** Digitalisation of Civil Justice Systems in Europe
- 19:30 GMT             Gala Dinner

## FRIDAY | 11 OCTOBER 2024

VENUE: KING'S INNS | HENRIETTA ST, DUBLIN 1 | D01 KF59, IRELAND

- 09:30–11:00 GMT     **Panel 4:** Extra-Judicial Administration of Justice in Cross-Border Family and Succession Matters
- 11:00–11:30 GMT     Coffee Break
- 11:30–13:00 GMT     **Panel 5:** Fundamental Rights and AI
- 13:00–14:00 GMT     Lunch
- 14:00–14:30 GMT     **Membership Meeting**  
**Closing Speech:** ELI President Pascal Pichonnaz
- 14:30–17:30 GMT     Hub and SIG Events
- 15:00–16:30 GMT     Walking Tour
- 19:30 GMT             Social Event

# Events Calendar At-A-Glance

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

Jan	16 Jan	ELI Project Kick-Off Webinar: Succession of Digital Assets, Data and Other Digital Remains <i>Online, register <a href="#">here</a>.</i>
	17 Jan	Access to Digital Assets Project Team Meeting <i>Online</i>
	18 Jan	ELI Austria: Event exploring International Dispute Resolution <i>Graz</i>
	23 Jan	ELI Turkish: Webinar on ELI Report on Empowering European Families <i>Online</i>
	31 Jan	ELI Webinar on the ELI Interim Report on EU Consumer Law and Automated Decision-Making <i>Online, register <a href="#">here</a>.</i>
Feb	5–6 Feb	ELI Dissemination Conference on the ELI-UNIDROIT Model European Rules of Civil Procedure <i>Vienna</i>
	8 Feb	ALI-ELI Webinar on the Use of Automated Decision-Making and Consumer Law <i>Online, register <a href="#">here</a>.</i>
Jun	3 Jun	ELI Member's Day <i>Online</i>
	20 Jun	ELI Enterprise Foundations Project Workshop <i>Copenhagen &amp; online</i>
Dec	2 Dec	<i>ELI Conference on Enterprise Foundations in Europe Copenhagen</i>

# 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.



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