



ELI

EUROPEAN
LAW
INSTITUTE

ELI Projects and Similar Initiatives



Current Projects

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



Admissibility of E-Evidence in Criminal Proceedings in the EU

The project aims at providing guidance on future legislative action on judicial cooperation in criminal matters and at presenting a draft legislative proposal on common standards for the admissibility of evidence gathered in cross-border criminal proceedings in the EU, including electronic evidence. It is timely in light of accelerated digitalisation across the globe and the need for common minimum standards on the gathering, transfer and exclusion of such evidence.



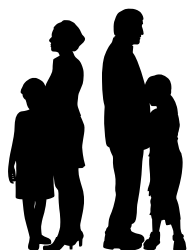
ELI-Mount Scopus European Standards of Judicial Independence

The Mount Scopus International Standards of Judicial Independence were created to apply in a broad range of jurisdictions globally. The current project reviews, updates and revises the Standards in light of the reality of European jurisdictions. The anticipated Report will provide specific guidance for assessing judicial independence in European legal systems and will include suggestions for legislative change or for the adaptation of current practices.



Fundamental Constitutional Principles

The definitions of Fundamental Constitutional Principles that form the foundations of a European liberal democratic State remain unclear. The ELI project seeks to formulate such Principles, identify their content and provide guidance to public authorities, courts, and citizens. Among others, the principles of democracy; the rule of law; the separation of powers; the right to judicial protection; accountability; and fundamental rights will be covered.



ELI Principles on the Extra-Judicial Administration of Justice in Cross-Border Family and Succession Matters

Most EU private international law instruments erroneously presuppose that justice in the area of family and succession law is still mainly administered by courts. The project aims at contributing to the effective and harmonious application of EU acquis by developing coherent approaches to the concepts of 'court' and 'decision' and identifying the conditions under which, and the extent to which, judicial activities may be applied to those performed by non-judicial actors.



Third Party Funding of Litigation (TPLF)

The Voss Report cited industry analyst, Slingshot Capital, reporting that the global TPLF market is now worth between €40bn and €80bn. The ELI project aims at developing Principles containing safeguards in order to provide an environment in which TPLF is allowed but in a manner that balances the availability of the tool with the interests of claimants and defendants and a healthy litigation market. The Principles may also serve as guidance for courts and national legislators.



Corporate Criminal Liability in the European Union

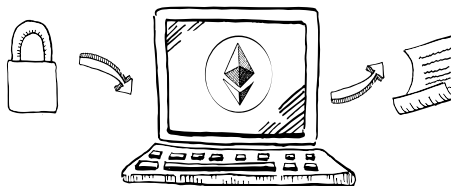
The project emerged out of an ELI High Level Expert Group meeting and aims at the development of Model Rules on the matter. As European Union Member States show very different approaches to the issue of corporate liability at present, the new ELI project aims at providing guidance to national legislators and/or the EU by proposing a framework for harmonising rules of responsibility and sanctions imposed on corporations for crimes.

Law and Governance for the Digital Age



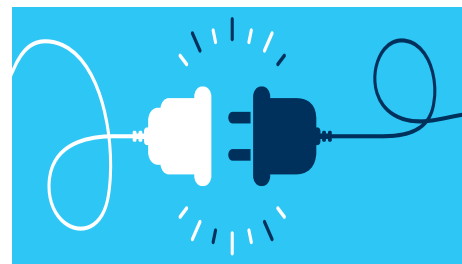
Access to Digital Assets: Enforcement

The proposed Principles are to be a source of inspiration and provide guidance for the further development of case law, legislation and soft law instruments in relation to the enforcement of digital assets by courts, national lawmakers and international organisations. The Principles could also be used by judicial enforcement officers, public authorities, (civil law) notaries and commercial arbitrators faced with issues relating to enforcement of digital assets.



Guiding Principles and Model Rules on Algorithmic Contracts

Algorithms and artificial intelligence are increasingly used for contracts. The ELI project, which focuses on the use of algorithmic decision-making (ADM) in the various stages of the contract life cycle, aims at assessing, firstly, the adequacy of existing EU consumer law for the use of ADM in contracts and, subsequently, at identifying gaps to fill and the necessary legal steps required to facilitate autonomous contracting in B2B, B2C, P2P and M2M transactions.



Guiding Principles on Implementing Workers' Right to Disconnect

The massive use of IT at work led to an unprecedented increase of the recourse to work arrangements in which the physical workplace was replaced by a virtual one, with an evident impact on private and family life. The Project Team will seek to elaborate on a set of fundamental Principles which can guide legislators and social partners to strike a balance between conflicting rights and to promote the private enforcement of the right to disconnect.

Sustainable Life and Society



Digitalisation of Justice Systems in Europe

In the past decade governments have invested in digitalising justice, but the level of digitalisation differs from country to country and within the EU. The primary purpose of this new ELI project therefore is to develop set of principles, deriving fundamental rights from Article 6(1) ECHR and Article 47 of the EU Charter on Fundamental Rights, providing an overarching framework for improving the use of digital technology in the judiciary.



Climate Justice – New Challenges for Law and Judges

Every day across the globe, individuals and NGOs are bringing new environmental cases before courts and asking for more action from governments concerning climate change. The project aims at developing Principles for Climate Justice covering locus standi, the role of international climate change law in domestic legal systems and in the EU legal system and courts, human rights, national and international public law, extra-contractual liability and private international law.



Advance Choices for Future Disablement

Advance choices enable people to give instructions, record preferences and express wishes in advance of a time when they may be disabled from doing so. The Team aims at producing model laws for advance choices and appropriate supporting material, with a view to providing guidance for European States to achieve for their citizens the benefit of being able to make advance choices, with certainty as to what will be their effect when circumstances which they address should arise.

Recently Completed Projects



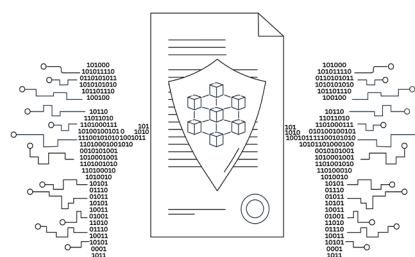
ELI Report on Freedom of Expression as a Common Constitutional Tradition in Europe

The ELI Report summarises the current laws in EU Member States on freedom of expression. It provides analyses on several topics, such as unprotected speech, minority rights, speech with a religious dimension, freedom of information and of the press and media pluralism, among others. It is intended as a practical tool (checklist) to assist practitioners, judges and public officials in identifying commonalities and differences in the legal approaches to the main issues relating to the freedom of expression.



ELI Report on Ecocide

The ELI Report on Ecocide aims at contributing to inter-institutional negotiations in the EU. It provides an innovative definition of the crime of ecocide in peacetime. To facilitate legislative procedures, it also includes a Model Directive that is closely based on the EU's Proposal for a Directive on the protection of the environment through criminal law and a Model Decision, which can be used by EU institutions in the context of developing rules to protect the environment through criminal law.



ELI Principles on Blockchain Technology, Smart Contracts and Consumer Protection

Ambiguities in this field are slowing down the use of such technologies, which have a huge potential to fundamentally change many areas of private law transactions. The ELI Principles seek to plug lacunae of legal uncertainty on the legal nature, status and consequences of using blockchains and smart contracts. They will support legislators in drafting rules that are more appropriate to contracts in this field and will also help judges in their roles as interpreters of the resulting legislation.



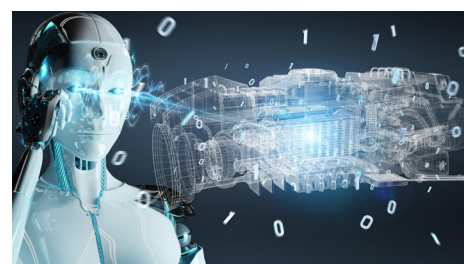
ELI Draft of a Revised Product Liability Directive

Council Directive 85/374/EEC on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (the 1985 PLD, as amended in 1999) has been the basis for product liability in the EU for almost four decades. The ELI PLD Draft aims at proposing solutions that will make the 1985 PLD fit for the digital age. It provides a comprehensive, coherent and consistent model that can also serve as a point of reference for a future debate on a revision of the 1985 PLD at EU level.



ELI Principles on the Use of Digital Assets as Security

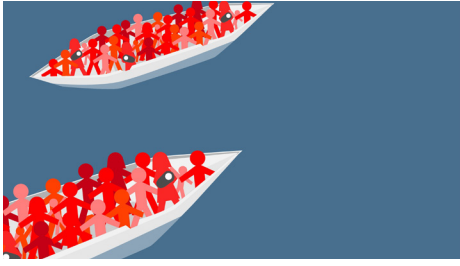
Digital assets cover a wide variety of assets, such as crypto-currencies, stablecoins, social media profiles and online gaming accounts; whilst there is no comprehensive definition at present, guidance is desirable, inter alia, on their use as security. Despite the fact that they only account, at present, for a very small share of most private individuals' asset portfolios, their popularity is on the rise. The ELI Principles sought to provide guidance to private parties, whether natural or legal, contemplating the use of digital assets as security.



ELI Model Rules on Algorithmic Decision-Making Systems Used by Public Administration

Public administration entails the processing of much more data than most private entities. New technologies, such as AI, can play a significant role in the modernisation and overall improvement of the functioning of public administration. At the same time, however, a guarantee of the transparency, correctness and security of the processed data is also fundamental. The Report lays down Model Rules to supplement European legislation on AI in the specific context of public administration.

Other Current Initiatives



Update of ELI's Detention of Asylum Seekers and Irregular Migrants and the Rule of Law Statement

In 2017, ELI published its Statement in this field, which aimed at contributing to an effective implementation of due process standards and material conditions for detention based on an integrated approach in respect of EU secondary law, case law of the CJEU and case law of the ECtHR in judicial practices of Member States.

It has undertaken to update the Statement's three checklists and their explanatory notes by the end of this year.



Response on the Fitness Check of EU consumer law on digital fairness

The Commission announced in its New Consumer Agenda that it will analyse whether additional legislation or other action is needed in the medium-term in order to ensure equal fairness online and offline. In March 2022, the Commission launched a Fitness Check of EU consumer law on digital fairness to determine whether the existing key horizontal consumer law instruments remain adequate for ensuring a high level of consumer protection in the digital environment. ELI responded to it.



Innovation Paper on EU Regulation of Cohabitation

This Innovation Paper proposes an EU Regulation on conflict rules regarding the cohabitation of couples in Europe who have different nationalities or live in another Member State than that of their nationality. Most EU Member States do not have private international law (PIL) rules for cohabitants and do not take into account the possible consequences in the area of property law. This uncertainty could come to an end for cohabitants by developing PIL rules of in and EU Regulation Together.

Recently Completed Initiatives

Responses to European Commission Public Consultations



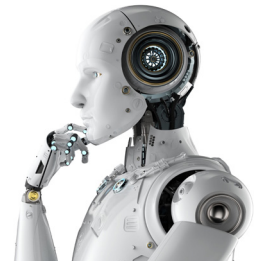
Feedback on the Proposal for a Revised Product Liability Directive

On 28 September 2022, the European Commission published two draft instruments, a proposed new Product Liability Directive (DPLD) as well as a draft AI Liability Directive (DAILD). The ELI Feedback is based on prior ELI work in this field, most notably the ELI Draft of a Revised Product Liability Directive. While welcoming developments, suggestions are included on how the proposals can be further improved. ELI hopes that these are found to be constructive and welcomes further dialogue on the improvement of law in this field.



Cross-Border Protection of Vulnerable Adults

In its Response to a Commission consultation, the ELI Team drew from the main findings of the 2020 ELI Report on the Protection of Adults in International Situations in this field and subsequently addressed certain issues which received less attention in the 2020 Report, both at the level of substantive law and conflict of laws, but which ELI believes should be addressed by EU legislative measures seeking to promote better cross-border protection of vulnerable adults.



Adapting Liability Rules to the Digital Age and AI

The central issue covered in the Response, which was lodged in light of a consultation issued by the Commission, is the need to reform the PLD, which remains largely unchanged since its adoption in 1985, in light of technological and other developments. The response further considers possible legislative intervention on liability for AI, as some applications of AI technology will fall outside the scope of the PLD and certain losses will not be indemnified under it.



Consumption of Goods – Promoting Repair and Reuse

The European Commission pledged, in its communication of 11 December 2019 on the European Green Deal, to put sustainability and the well-being of citizens at the centre of economic policy. ELI's Response provides several recommendations on the Commission's consultation on the 'right to repair' and how to incentivise both customers and businesses to encourage the sustainable production of products, which is of particular relevance, given ongoing legislative developments in the field.

Innovation Papers



Guiding Principles for Automated Decision-Making in the EU

While useful rules on algorithm-based systems and automated means can already be found in (existing and proposed) Union legislation, they do not form a consistent, coherent, and all-embracing body of rules. The Paper lays down 12 Principles aimed at providing further guidance on establishing a legal framework for ADM in the EU, both in light of the ever-growing use of ADM systems in the digital world as well as unharmonised EU rules relating to automated processes.

Resolution on Ukraine



ELI Council Resolution on Ukraine

On the very day of deployment of Russian armed forces into Ukraine, 24 February 2022, the ELI Council summarised three fundamental legal principles in its Resolution on Ukraine and reiterated its unwavering support for Ukraine and its people.

Prospective Projects

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

- EU Conflict of Laws for Companies: The Acquis and Beyond
- Recognition of Agreements Resulting from Mediation
- Charitable and Other Long Term Foundations in Europe

Law and Governance for the Digital Age

- Biometric Techniques
- Digital Inheritance

Sustainable Life and Society

- Administration of Justice and the Risks of Gender Discrimination
- Nudges as Enablers of Sustainable Living

