



ELI

EUROPEAN
LAW
INSTITUTE

ELI Projects and Similar Initiatives



Current Projects

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



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.



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.



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

In 2017, ELI published a Statement on Detention of Asylum Seekers and Irregular Migrants, which identified due processes, standards and material law defining the conditions of detention and compiled three checklists looking at the detention standards under the European Convention on Human Rights (ECHR) and the Dublin III Regulation (604/2013/EU), the Return Directive (2008/115/EC) and the Recast Reception Directive (2013/33/EU). ELI is now updating the 2017 output in light of more recent case-law.



Corporate Criminal Liability in the European Union

As European Union Member States show very different approaches to the issue of corporate criminal liability at present, the 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. The Project Team will develop a set of Model Rules to this end, which will be accompanied by background materials.

Law and Governance for the Digital Age



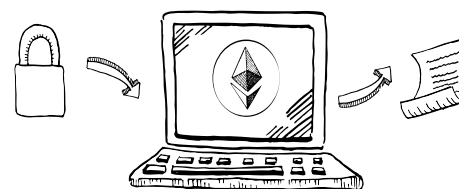
Forseable Amendments to the EC Proposal on the Recognition of Foreign Filations

The project aims to propose amendments to the above proposal. Its provisions will be scrutinised from four specific perspectives: children's, LGBTI persons' and women's fundamental rights, and the underlying EU primary law, especially concerning the free movement of citizens. Based on that, the Team will develop a Position Paper with alternative formulations proposed. Those will be supplemented with explanations and comments where necessary. The Team will also elaborate Model Rules in the form of desirable amendments to the future EU Regulation..



Access to Digital Assets – Enforcement

At present, uncertainty exists as to how digital assets could be obtained in enforcement proceedings due to their digital nature and other functional and structural characteristics. The ELI project is therefore developing Principles on enforcement of digital assets, with a view to provide guidance to courts, national lawmakers and international organisations. The Principles could also be used by judicial enforcement officers, public authorities, notaries and commercial arbitrators faced with issues relating to the enforcement of digital assets.



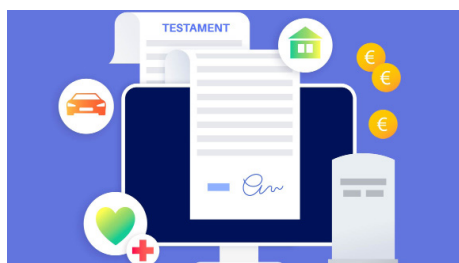
Guiding Principles and Model Rules on Algorithmic Contracts

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.



Digitalisation of Civil 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.



ELI Model Rules on Succession of Digital Assets, Data and other Digital Remains

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



Sustainable Life and Society



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

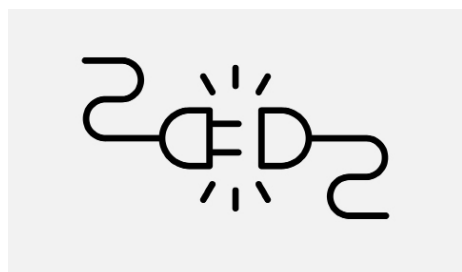
Advance choices enable people to give instructions, record preferences and express wishes in advance of a time when they may be disabled from doing so. The Team will develop Model Laws for advance choices, with appropriate supporting material. The model laws will seek to offer optimum provision for advance choices, with as much consistency as is reasonably achievable across Europe.



Enterprise Foundations in Europe

At present, despite their significant contribution to European society, European enterprise foundations – ‘foundations that own companies’ – live out a shadowy legal existence which limits their potential contribution. The ELI project therefore aims to contribute to overcoming these obstacles by providing guidance on approaches and solutions to foundation law in different European countries, as well as to develop a model enterprise foundation law. The model law will be drafted to meet the needs from as many European countries as possible.

Recently Completed Projects



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.



Admissibility of E-Evidence in Criminal Proceedings in the EU

The project resulted in the ELI Proposal for a Directive of the European Parliament and the Council on Mutual Admissibility of Evidence and Electronic Evidence in Criminal Proceedings, which provides guidance on future EU legislative action in the field. It aims at harmonising approaches in EU Member States and, through it, enhancing the principle of mutual recognition in criminal matters and the protection of human rights of suspects and accused.



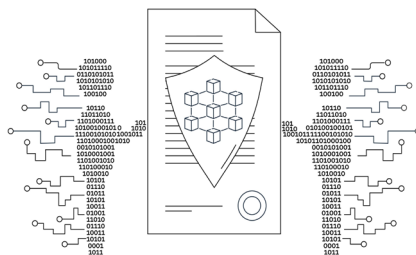
ELI Report on Ecocide

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.



Guidance on Company Capital and Financial Accounting for Corporate Sustainability

The ELI Guidance contributes to the important and timely debate on how company law and financial accounting can be reformed to promote corporate sustainability and responsibility, in the interest of business and society at large. The Guidance includes a set of 20 Recommendations on company capital and financial accounting for corporate sustainability.



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.

Recently Completed Initiatives

Responses to European Commission Public Consultations



Feedback on the Proposal for a Directive on Common Rules Promoting the Repair of Goods

In March 2023, the EC announced a proposal on common rules promoting the repair of goods. The ELI Feedback analysed the proposed consumer's right to repair within the scope of the Sale of Goods Directive (SGD) and the newly proposed Directive which introduces measures beyond the legal guarantee period of the SGD. It evaluated the proposal to determine whether it achieves its goal. The Feedback also addressed the enforcement of the proposed Directive and its coordination with other recent EC proposals.



Digital Fairness – Fitness Check on EU Consumer Law

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 November 2022, the Commission launched a public consultation 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.



Feedback on Proposal for a Revised Product Liability Directive

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 subject.



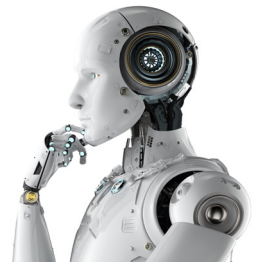
Consumption of Goods – Promoting Repair and Reuse

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.



Cross-Border Protection of Vulnerable Adults

The response urges the EU to take measures to improve the protection of adults in cross-border situations both at regional and global level by encouraging ratification of the Hague Convention by Member and third party States. Internally, the EU is also called, among other things, to supplement the Convention through legislative measures that facilitate forum selection (including by adults at a time when they have capacity), determine the law applicable to advance directives and propose templates for the same.



Adapting Liability Rules to the Digital Age and AI

The central issue covered in the Response 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.

Innovation Papers



Guiding Principles for Updating the Product Liability Directive for the Digital Age

The EU Product Liability Directive has remained unchanged for the past 35 years despite rapid digitalisation. With digital automation and artificial intelligence substituting for human operation, the Institute alerts that the time has come to reform the Directive so that it can continue to protect individuals suffering harm from defective products in the new, digital reality.



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
- The Standard and Proof of Consent in Sexual Crimes

Law and Governance for the Digital Age

- Biometric Techniques
- Digital Inheritance
- The Interplay Between the General Data Protection Regulation and the Proposed AI Act

Sustainable Life and Society

