

Johan Gernandt

Chairman of Stockholm Center for Commercial Law (“SCCL”)

Chairman of the Stockholm Arbitration Institute of the Stockholm Chamber of Commerce (“SCC”)

Senior counsel, Vinge Law Firm, Stockholm

Ladies and Gentlemen,

First, I would like to thank Professor Reinhold Zimmerman for his excellent presentation.

I have a practitioner’s perspective in my approach to the future benefits of the European Law Institute (“ELI”).

In my comments below, I will provide a short summary of why I believe practitioners will benefit from the founding of ELI. I also believe that academics will benefit from their discussions with practitioners.

1. As an introduction to my comments I like to mention the Stockholm Center for Commercial Law (“SCCL”) which is part of Stockholm University.

The SCCL was established in 2000.

The SCCL currently has 10 different departments with 100 full or part-time employees.

These 10 departments include, among others:

- Company law
- EU law
- Real Estate law
- Insurance law
- Banking and finance regulations
- Tax

The activities of SCCL include holding seminars on topics which fall within the range of SCCL’s activities. During the last year, SCCL held more than 43 seminars on different topics.

Some of SCCL’s academic members are also engaged in the development of law in different governmental commissions regarding possible changes of the law.

SCCL has various financial contributors in addition to Stockholm University such as some private funds and a group called “The Friends within the Swedish law firms”.

“The Friends within the Swedish law firms” is of particular interest in this context. It consists of the 20 largest Swedish law firms, all of which are interested in contributing to SCCL’s academic work. The lawyers in these law firms are interested in the exchange of ideas on how to develop Swedish laws and regulations. These law firms send representatives to participate in seminars in order to discuss and learn more about legal developments.

These law firms pay a certain annual fee per lawyer and per firm, which means that a law firm with 100 lawyers pays twice the amount that a law firm with 50 lawyers pays.

This organization, “The Friends within the Swedish law firms” has been a true success. I hope that ELI can create a similar European organisation.

2. Most importantly, and as a comment upon today’s inauguration, this shows the interest that practitioners have for the work performed by academics. It also shows, of course, the need that lawyers have to follow academic discussions and legal developments. By doing so lawyers constantly receive further education and training and thus improve their professional skills. The only problem is, of course, that practitioners have to divide and balance their time between assisting their clients and developing their legal knowledge through academic discussions and work.

I believe practitioners’ interest in the academic work (and *vice versa*) has developed during the last ten years.

And for this reason I am glad that ELI in its Manifesto includes the following as one of its pillars

“Among ELI’s core tasks are: ...

- *to provide a forum, for discussion and cooperation, of jurists irrespective of their vocation or occupation, inter alia academics, judges, lawyers and other legal professionals, who take an active interest in European legal development and together represent a broad range of legal traditions”.*

This kind of cross-fertilisation is important and necessary for our European legal community, in order to create an excellent basis for the development of the law and the personal development of lawyers.

3. The need for practitioners to work with academics and *vice versa* can also be illustrated as follows:
 - a. The economic and financial developments that have taken place over the last 40 years have to a large extent constituted the driving force for much of the legal developments.
 - b. Law firms have become international with offices often in several countries. The individual lawyer has, as Professor Reinhold Zimmerman just said, become more specialised. However, such specialisation may - from a practitioner’s long-term perspective- not be good or even desirable.
 - c. Contracts have also become more standardised and complex. However, it is not enough to use some kind of standardised contract regardless of whether it has been developed internally in a law firm or by some organisation. Standardised contracts in a broad perspective constantly need to be changed and developed as a result of new laws and regulations, new case law and

economic developments. The individual (mostly young) lawyers must understand the background and legal rules underlying these different contracts and the different provisions in such contracts.

- d. Another example is that over the last few years, and at least since 2008, we have had several seminars at SCCL following the financial crisis. The discussions on various legal topics that we have conducted in Stockholm following the crisis have indeed attracted many lawyers to the seminars. “The rooms have been packed.”

This is again an example of the need for academics, practitioners and law makers to work together to construct new sets of rules. Such co-operation is essential and academics can have a great and immediate influence.

- e. Today in large arbitrations it is often not enough to convince an arbitral tribunal by solely referring to the interpretation of a certain statute that a professor has made in a textbook. Nowadays it has become important to enclose a legal opinion by one or several professors, whereby the legal question is individualised in the respective legal opinion.

I would even add that it has become necessary and customary even when preparing a case to discuss the legal questions prior to submitting a request for arbitration, a statement of claim or a statement of defence. And, furthermore, during the arbitral proceedings it has become common practice to discuss the development of the case with academics.

The above sections a-e emphasises the need for a close co-operation between academics and practitioners. This also demonstrates the benefits that the practitioners and academics will have from the founding of ELI.

Accordingly, (i) the fast economic developments (ii) the development of international law firms with cross-border activities (iii) the development of, *inter alia*, standardised contracts and (iv) international commercial disputes all underline the importance of ELI and ELI as a forum for the exchange of ideas and experiences between lawyers of different backgrounds.

4. Suggestions have been put forward for many interesting projects which may be conducted by ELI. This will be discussed during the course of this afternoon so I will not give my comments on the list of projects.
5. Finally, I would like to convey the best wishes from the Swedish Minister of Justice, Mrs Beatrice Ask.

Mrs Beatrice Ask would, like the German Minister of Justice, like to express that she is “looking on the ELI with great sympathy and with the expectation that it will make a significant contribution to better law making”.