

European Law Institute
Meeting of the General Assembly

Vienna, OGH, 16 September 2011, 10:00

I. Jacobs opens the first General Assembly (GA) and expresses his gratitude to Griss for hosting the meeting. He informs the meeting that Griss is also one of the first members of the Senate of the ELI. Jacobs explains the importance of the GA and its importance for the functioning of the ELI and in particular for the ELI projects.

II. Jacobs turns to the President's Report, item 1 of the agenda

He refers to the launch of the ELI, the successful Founding Congress in Paris and the efforts involved in it. It resulted in a high degree of enthusiasm and many applications for membership. He thanks Wendehorst and Fauvarque-Cosson for their tireless efforts and Liedermann (research Assistant with the University of Vienna) for his support, in particular with setting up the IT structure, the website and the membership form.

Jacobs informs the GA about the Committees being formed, the proposals made to the Council (project guidelines, call for projects, first projects), contacts with the European Parliament and the European Commission. He underlines the high ambitions of the ELI.

III. Jacobs invites Wendehorst to give the treasurer's report, item 2 of the agenda.

Wendehorst presents her report. She describes three different accounts. The first one is with a bank in Brussels and the ELI AISBL is the holder ("Brussels account"). Membership fees in the amount of about € 4.500 have been paid, institutional members have not yet had to pay their membership.

The second account is the ELI's Secretariat account ("Vienna account") with a current balance of € 2876,59. This account is jointly administrated by the University of Vienna and the Treasurer. The donation of the University of Vienna totaling € 1 m will be paid to this account.

As for the expenses, about € 2.700 for the job advertisement for the Secretary General (for which interviews have recently been held) have been paid through the Vienna account.

The third account is an external funds account.

Wendehorst thanks the University of Vienna, the Association of Notaries of Vienna and the Vienna Bar Association for their support in holding and funding the Council

meeting the same day and asks the GA whether these funds should be accepted so that the expenses of this meeting can be covered. The GA approves.

IV. Jacobs turns to the budget, item 4 of the agenda.

Wendehorst explains the budget for 2011 in some detail. It is expected to close with a surplus of about € 45.000 for 2011.

Fobe inquires about the figure for the institutional observers.

Wendehorst explains it was a cautious guess, based on the fact that not all institutional members will pay a fee in 2011. She emphasizes that the membership fees have not yet been set as negotiations between the Institutional observers with President and the Membership Committee are still ongoing.

Wendehorst turns to the budget of 2012. Assumptions there are very conservative. She expects the actual budget to be more substantial. In particular she informs the GA that one uncertainty lies with the decision of whether the ELI will, in principle, reimburse travel costs or whether it is decided that members of the bodies of the ELI will primarily try to get travel cost reimbursement from their institutions.

Timmermanns inquires about the figure of the surplus for 2011 in the amount of about € 45.000 and the surplus added in the budget of 2012 is only about € 32.000.

Clément inquires about the membership fees received in 2011 and points out, that as a single payment has been required for 2011 and 2012 by individual members, the budget of 2011 looks overfunded and 2012 respectively seems to lack these funds. It may therefore seem wise to state the fees in the respective budgets even though the cash flow will mostly be received in 2011.

Jacobs asks whether the assembly approves the accounts with the suggested amendments. There is consensus to adopt the budget.

Storme inquires about the procedure in the future, on when to fix the budget 2012. It may be useful to set the date early in the year for reasons of Austrian tax law.

Jacobs and Wendehorst inform that the date for the next GA will probably be 18 February 2012. However, Wendehorst points out that the issue of tax law raised by Storme primarily requires the approval by an auditor (not the GA).

Clément reminds the formal approval by an auditor and the GA can only be done once the year has passed and the figures are known, therefore the accounts of 2011 may be discussed in February 2012, but the accounts for 2012 can only be finalized in 2013.

Consensus is established that reimbursement for reasonable travel costs will in principle be provided. Every Council member is, however, kindly invited to first seek funding from his or her institution.

V. Jacobs turns to the general discussion of the aims of the ELI, item 4 on the agenda

Jacobs suggests the ELI will draft instruments of various kinds aimed at improving the quality of law in Europe and European law. Teaching in the context of European law may be considered as an objective, as it is not yet sufficiently done. The ELI will, most likely, from time to time be involved in national and international projects, but the main focus is likely to be on EU law, legislation and Court developments.

Jacobs thinks proposals for EU law should be considered at an early stage, where possible before a draft is finalized. The ELI could provide guidance on and for the European legislative process.

One particular topic the ELI will actively be involved with is the European contract law.

Assessment of EU legislation may be carried out at different stages. The European Commission work program can therefore be followed on a long and short term basis so as to anticipate developments on this level. This could, for instance, be done in the context of the 2013 initiative on European citizenship by the European Commission.

The ELI could also take part in the formal scrutiny process, assisting the European Parliament and the Council in their examination.

The ELI could, finally, also examine established legislation and perhaps point to the need for reform and clarifications. This could be the objective of restatements.

One topic suggested by Jacobs is a review of the EU court system, possibly also of the Court system of the ECHR, currently facing difficult times.

Jacobs emphasizes that the selection of projects will be a key challenge. The publication of the projects will require the approval both of the Council and the GA, or under the accelerated procedure a Council decision.

As for the public outreach, the initial effort will aim at attracting interest in the legal community. The MC will report on its suggestions during the Council meeting today.

Storme points to the importance of the long term perspective on ELI projects and suggests thinking about how to keep ELI instruments updated, so that their relevance is not lost over time.

Jacobs welcomes this suggestion and thinks there should be a systematic approach in this context.

Botusharova points to the importance of outreach for the access of new members and its relevance for the diversity of the membership structure of the ELI.

Timmermans underlines that the ELI is an institute for law in Europe, not primarily EU law, even though, that may be one focus. He thinks that the involvement in EU legislation is very sensible. The involvement could also be useful in the context of impact assessments done by the European Commission on legislative projects.

Jacobs thanks Timmermans for his intervention and agrees that the ELI will certainly not be limited to EU law, which, indeed, can not always be differentiated from national law anymore.

Fauvarque-Cosson adds that the fact the ELI will not be limited to EU law is reflected in the translations of the name, available on the ELI website.

Philippe mentions that he will present the ELI at the next meeting of the International Bar Association (IBA).

Zoll mentions there is a fundamental project is forthcoming on the European sales law, currently prepared as an optional contract code by the European Commission.

Jacobs states that this is an important development in which the ELI should be involved.

Fauvarque-Cosson points out the ELI has established strong ties with the European Commission. In a recent communication by the European Commission of 13 September 2011, the European Commission expects the ELI not only to get involved in the legislative process but also in the process of training of judges in particular. In this context, ELI is mentioned alongside with ERA.

A reaction to the Commission paper Com (2011)551 final is discussed.

Fauvarque-Cosson informs the GA that she has been contacted by the Vice-President of the World Bank for a large workshop in Washington this fall on developments of law. She suggests, the ELI should be present at this workshop, not least for visibility.

Jacobs inquires whether it would be useful to formulate a general text presenting the ELI for various legal reviews in various countries. There is consensus that such a text would be very helpful.

Timmermans also reminds the GA that membership in the ELI will be a privilege and high standards should be maintained for the selection of new members.

Illescas suggests that a survey of the evolution of European Commission and EU law and the developments on a national level with a European impact should be presented annually by the ELI.

Jacobs thanks Illescas for this suggestion and mentions that the practical aim of the ELI projects should be kept in mind.

van Erp informs the GA that he gave an interview in a review for the Notaries of the NL and suggests that if possible, it would be very helpful if the President would be available for talking to similar publications and the press.

van Erp suggests there should be a press statement about the first GA and the Council meeting today in Vienna, in which there should be some information about the aims of the ELI.

Jacobs replies he is certainly available for this task.

Ajani informs the GA that his faculty has established a centre for European law. One of the projects deals with the language issues in European publications. This may be a topic relevant to the ELI because of its international character. Ajani says he would like to host a Council meeting together with the project group working on the language issues. This could be very useful to strengthen ties with the local community.

VI. Jacobs turns to point 5 on the agenda (any other business).

No statements are made.

Jacobs sums up that a close examination will be given to all the suggestions received. He thanks the persons present for their participation and closes the GA.