

## Message from the Secretary General



Dear Fellows, Observers and Friends of the ELI,

The month of February has been an important one for the ELI. On February 17<sup>th</sup> and 18<sup>th</sup> the Senate and the Council of the Institute convened in Vienna to set the course for the work that will take place over the next months.

A large part of that work will focus on getting new projects selected by the Council off the ground. Initially the Senate and the Council agreed on four topics, which will be turned into long-term projects. Once these are approved by the Council, they will become the central pillars of the Institute's work even as its activities continue to expand.

The new projects are concerned with the impact of income tax law on the mobility of individuals, specific aspects of European criminal law, principles and best practices in European administrative law, and the broader aspects of data protection and freedom of information rights. More project ideas are in the pipeline and closer cooperation with the American Law Institute is expected to yield some joint endeavors in the near future.

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The two on-going projects on the Common European Sales Law proposal and the caseload of the European Court of Human Rights are already feeding into the political debates surrounding both topics. In particular, the Common European Sales Law is high on the political agenda and the ELI Working Party will discuss its work with the European institutions in the next weeks. The project on the caseload at the European Court of Human Rights is feeding into a political discourse which will become more intensive throughout spring.

Behind the scenes, the Secretariat has been working on establishing a communication platform that will facilitate the dialogue amongst our Members interested in taking part in some of the Institute's initiatives.

We hope that the projects, the forthcoming improvements in communication channels and the General Assembly in September will give us many more opportunities for exchange and collaboration.

Yours sincerely,

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## ELI Welcomes New Members

Since ELI's inauguration in November 2011, the Institute has welcomed close to 100 new Members and we are receiving new applications every day. Our Members are the driving force behind ELI's success in the future, and we are constantly working on increasing our membership base. Once again we want to invite our Members to take

an active role in the Institute's work. Please contact us to learn about ways to get involved, to get more information on ELI projects - or should you need anything else such as an invoice for your membership fee payments as the tax time approaches.

## Council endorses four new topics at Vienna meeting



Meeting of the ELI Council at the University of Vienna on 18 February 2012

On February 17<sup>th</sup> and 18<sup>th</sup> the Senate and the Council of the European Law Institute met in Vienna to discuss ELI's work so far and lay out concrete plans for the future. While the meeting of the Senate was held in the premises of the ELI on the 17<sup>th</sup>, the Council convened in the Senatssaal of the University of Vienna on the 18<sup>th</sup>.

Both bodies focused on the assessment of the ongoing and proposed ELI projects. They commended the work carried out by the CESL Project Group, chaired by Sir John Thomas, and the ECHR Project, led by Paul Mahoney, for their promise to make a substantial contribution to the discourse in both domains.

The Chair of the Projects Committee, Hans Schulte Nölke introduced proposals for new topics, which have been submitted to or developed by the Committee with

the Secretariat's assistance. The Senate reviewed all the proposals and suggested that four be pursued in the initial round.

The Vice-Speaker of the Senate Reinhard Zimmermann presented the advisory body's recommendations to the Council, all of which were in line with the topics shortlisted by the Projects Committee. Following their suggestions, the Council endorsed four proposed topics that have as their focus the principles of EU administrative law, the impact of income tax law on citizens' mobility in Europe, a model law on the prevention and settlement of conflicts of exercise of jurisdiction in criminal law and a project on data protection and freedom of information rights.

While taking into consideration the on-going data protection reform, which the European Commission published on January 25<sup>th</sup>, the data protection project will have a broader perspective, also encompassing related issues such as IP rights enforcement and internet surveillance.

The Council, in agreement with the Executive Committee and the Senate, gave the mandate to the Projects Committee to develop these four topics into comprehensive project proposals to be approved by the Council at its next meeting or through an electronic vote.

The Projects Committee aims to finalise the preparatory phase of the project development in the next two months. All four projects will become Instruments with a potential duration of three to five years.

The Projects Committee will also follow up on a number of other topics of strategic interest for the ELI, which may require some further development in consultation with experts before they are endorsed. These topics may also be resubmitted at the next Council meeting for further discussion.

### Senate appoints **Arbitral Tribunal Members**

At the meeting on the 17<sup>th</sup> of February, the ELI Senate appointed three Arbitral Tribunal Members.

They are: Professor of European Private Law at Radboud University Arthur Hartkamp (Netherlands), Justice of the Supreme Court of the United Kingdom Lord Jonathan Mance (UK) and Vice President of the The Conseil d'État, Jean Marc Sauvé (France).

## CESL Working Party to present draft to European Commission

The Working Party is examining, in the light of the European Commission's policy objectives, the Proposal for a Regulation establishing a Common European Sales Law (CESL). The policy objectives underpinning the proposed Common European Sales Law (the CESL) are: to enhance the viability of the EU's internal market through facilitating cross-border trade, both in respect of business to consumer transactions and business to business transactions; secure a high and uniform level of consumer protection across the European Union (EU); maximise the opportunities which can accrue to small and medium enterprises (SMEs) from an effective internal market; maintain the EU's policy of non-discrimination against consumers and businesses from third countries; and maintain, except in defined circumstances, freedom of contract.

To achieve its underlying objectives the CESL will have to be attractive to its potential users; a point all the more pertinent as it is to be an optional law. The Working Party has therefore

critically examined the CESL, and intends to make a number of practical recommendations each of which is designed to facilitate the achievement of its underlying policy objectives. Further recommendations are intended to improve its application. The Working Group has not examined the political dimensions relating to the CESL or its treaty basis. Both issues are of high importance for the success of the CESL, but they are a matter of political controversy rather than falling within the objectives that the Working Party has undertaken.

The approach of the Group was discussed in both the Senate and the Council meetings. Both commended the work so far done by the Working Party and agreed that the issues identified by the Working Party should be discussed with the Institutions of the European Union as part of the on-going work of the Working Party. Arrangements are being made to carry this forward over the course of the next few weeks, with the first meeting with the European Commission scheduled for March 2nd.

## Cooperation between the American and the European Law Institute



The European Law Institute and the American Law Institute have made a commitment to strengthen their cooperation in the upcoming months. The Director of the ALI Lance Liebman and his predecessor Geoffrey C. Hazard have been supporting the creation of the European Law Institute from the earliest stages of the process. George Berman and David W Rivkin actively participated in ELI meetings and the ELI was represented in the January ALI Council meeting through the ELI Treasurer Christiane Wendehorst and ELI Secretary General Tobias Schulte in den Bäumen. In mid-February

Fabrizio Cafaggi, the ELI-ALI liaison officer in the International Relations Committee, met Lance Liebman and his team to discuss how the two Institutes might further develop their relations. European experts have already served as Project Reporters for the American Law Institute and a considerable number of scholars are members of both institutes. Consequently, the ALI and ELI aim to embark on joint projects which will strengthen the role of both institutes internationally.



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*Building on the wealth of diverse legal traditions, European Law Institute's (ELI) mission is the quest for better law-making in Europe and the enhancement of European legal integration. By its endeavours, ELI seeks to contribute to the formation of a more vigorous European legal community, integrating the achievements of the various legal cultures, endorsing the value of comparative knowledge, and taking a genuinely pan-European perspective.*

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## Save the date!—ELI General Assembly scheduled for September

The European Law Institute will hold its 2012 General Assembly at the end of September in Brussels. The General Assembly will take place as a part of a Congress that will include various lectures and workshops on ongoing ELI projects. The ELI Council, Senate and different committees will meet on the same occasion.

The Congress will take place on the premises of the event's co-organizer - the Royal Flemish Academy of Belgium for Sciences and the Arts (KVAB) - from 27 through 29 September. The exact date of the

General Assembly itself will be fixed in the following weeks.

The KVAB conference centre is conveniently located close to the Royal Palace and Troon station. The Secretariat is negotiating hotel rates with hotels near the venue and will open the online registration after the ELI bodies have finalised the details of the agenda.

Please contact the Secretariat at [secretariat@europeanlawinstitute.eu](mailto:secretariat@europeanlawinstitute.eu) with any questions that you may have. We hope to see many of our Members in Brussels.



Royal Flemish Academy of Belgium for Sciences and the Arts (KVAB).