



ELI
EUROPEAN
LAW
INSTITUTE

ELI Updates March 2012

Message from the Senate Speaker

Dear Fellows, Observers and Friends of the ELI,



ELI's mission is the quest for better law-making in Europe and the enhancement of European legal integration in all branches of law. This ambitious mission can be accomplished only if legal professionals from all over Europe cooperate. Regional diversity is however just one aspect; there is an equal need for diversity in professions and for diversity in the areas of law.

This diversity for which ELI strives is reflected in the Senate, the advisory body of the Institute. The Senate can give advice and make recommendations upon consultation by any other body of the Association but also on its own initiative.

The ELI Council elected the first 10 Senate members last September. Current Senators represent nine different countries and work in different areas of law. Some come from academia; others are practitioners, ensuring this diversity of perspectives enshrined in the Institute's philosophy.

The value of the Senate's broad experience and expertise was proven when it had to give advice on the proposals for ELI projects. In its first meeting on 17 February 2012, after a profound discussion, the Senate endorsed two projects and recommended two other topics to be developed further. The Council followed the Senate's advice.

The Senate also plays a vital role in the settlement of disputes within the Association. It appoints the three members of the standing arbitral tribunal from among its members.

The Senate's composition shall ensure that the Senate is able to fulfil its tasks. Persons of an outstanding reputation in the European legal community may become members as long as they are ready to give advice and devote their expertise, with the goal of furthering ELI's objectives of contributing to better law-making in Europe.

Sincerely,

Irmgard Griss

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ELI Secretariat welcomes new Team Member



Alina Waloszczyk joined the ELI team in March 2012 where she holds the position of a Project Officer. She is in charge of the management of ELI projects and facilitation of the ELI communication and event management activities. A lawyer by training with another degree in economics, Alina has a wide range of interests and a great deal of international work experience. Before joining the European Law Institute she had worked for DG Justice at the European Commission. Alina can be reached by mail at alina.waloszczyk@europeanlawinstitute.eu

Caseload of the European Court of Human Rights Statement making substantial Progress



European Court of Human Rights

Photo: Rh-67/ Wikimedia

The ELI Statement on the case-overload at the European Court of Human Rights has set its sails and is now on track to render ELI's first draft for a contribution to the forthcoming political discussion on the future of the Court. The Caseload Statement has already been discussed with the Advisory Committee and is now being presented to the Council and the Senate.

The draft, being concerned with the phenomenon of the significant imbalance between incoming and outgoing business at the ECHR (currently around 152.000 pending applications), focuses on what it is considered to be the main area for immediate action in order to keep the Court's caseload to manageable proportions. The paper starts with a survey of the actions already taken or changes already implemented into the Convention system and ends with five practical recommendations.

The Working Group reaffirmed a set of underlying primary considerations. In particular, the right of individual petition, as a cornerstone of the Convention with an enormous symbolic value in allowing simple and direct access to the Strasbourg Court, should by no means be sacrificed. The paper further stresses that proper compliance by the Contracting States with their obligations as well as the principle of subsidiarity, together with the role of the Court itself, are crucial for the successful alleviation of the workload. It goes without saying that every package of changes has to be cost-effective, although moderate increases of the Court's expenses probably cannot be avoided.

The draft further examines the structure of the whole caseload, consisting of different kinds of cases. On the one hand, the workload is caused by a large number of unmeritorious applications to be struck out at or declared inadmissible at the outset. On the other hand, admissible applications form a huge part of the backlog, either because they are repetitive or because they are, at least at first sight, well-founded.

The final recommendations of the Statement are now being discussed within the ELI bodies. It can be said that different categories of cases will require different actions. In the discussion, a large range of recommendations have been made and only the most feasible were selected to be presented to the Council. Recommendations that were not included in the statement were submitted in an Appendix.

ELI feels that a safety valve is necessary in order to prevent the individuals who need international protection from being denied access to a "practical and effective" remedy before the Court. The Caseload Project will certainly contribute to achieving this goal.

ELI visits European Parliament



The President of the European Law Institute Sir Francis Jacobs at the Committee on Legal Affairs

The ELI was invited to present its organizational structure and goals to the Committee on Legal Affairs of the European Parliament on 26 March 2012. The President of the ELI, Sir Francis Jacobs, opened the presentation and thanked the Committee for the invitation. Bénédicte Fauvarque-Cosson, the Vice-President of the Institute, gave a presentation on the history, the structure and the decision making processes of the ELI. Following a presentation on the ELI Senate by its Speaker Irmgard Griss, Christiane Wendehorst showcased the Common European Sales Law (CESL) initiative as an exemplar for the projects carried out by the

ELI. The final presentation on the Secretariat in Vienna and the projects initiated by the Council was given by Tobias Schulte in den Bäumen. The short presentations were followed by a number of questions from the members of the Committee.

The Committee welcomed the work carried out by the ELI and expressed its hope that the Institute would enhance the legal culture in Europe. The ambition to cover all jurisdictions in Europe and to involve legal experts with diverse professional background was commended by the members of the Committee. The Committee also expressed its wish that ELI would make a contribution to the education of legal professionals in Europe.

The representatives of the ELI and the members of the Committee agreed to have regular meetings to update the Parliament on the work carried out by the Institute. The Committee is also looking forward to receive the ELI Statement on the CESL and to get an input from the ELI regarding the future research framework and its implementation in the field of legal research.

CESL Working Party presents Draft to European Commission

Sir John Thomas, Matthias Storme, Christiane Wendehorst and John Sorabji met representatives of DG Justice on 2 March 2012 to discuss the progress the CESL working party has made in its consideration of the proposed common European Sales Law. A further meeting, attended by Matthias Storme, Christiane Wendehorst and John Sorabji, with representatives of the Danish Presidency of the Council of Ministers took place on 22 March 2012.

Both meetings proved to be of considerable value.

The working party representatives outlined the nature of the working party's remit, the nature of its approach and discussed its work, specifically the draft textual revisions and the proposed post-implementation measures to render the CESL more user-friendly, simpler and effective. The representatives were able to discuss these matters in detail with both Institution's representatives and, as a consequence, they received detailed comments on the issues raised in the draft report. The working party's drafting team is now considering its draft in the light of those comments.

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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.

www.europeanlawinstitute.eu

ELI Conference Registration opens mid-April



Thon Hotel EU

The preparations for the ELI September Conference are well underway. The Institute looks forward to bringing its guests a diverse array of activities over the course of two days.

The General Assembly will take place on the second day of the Conference, Saturday, 29 September 2012.

For its Members, the European Law Institute has secured special rates at the Thon Hotel EU, located just 10 minutes walking distance from the Royal Flemish Academy of Belgium for Sciences and the Arts. In order to receive the ELI rates of 95 euro per night (single), the guests are invited to request a reservation form from the Secretariat. This form should be filled out and sent to the hotel directly.

The registration for the Conference will open mid-April. Please check the Institute's website for updates.

Are you an ELI Member and do you keep a legal blog?

If so, we would love to know about it. Please email the Secretariat with a link to your blog at secretariat@europeanlawinstitute.eu.