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Ladies and gentlemen, distinguished colleagues!

It is an honour for me to speak today at this inaugural congress of the European Law Institute. Although this congress is to be considered as a starting point only, I hope and I am convinced that ELI will play an important role in the development of EU law and therefore for the EU itself, as well as for all its 500 million EU citizens. Neil Armstrong, after making his first step on the Moon, said: "That's one small step for a man, one giant leap for mankind". Regarding ELI, we could say that this is a small step for the founders of ELI, but a big step for European law. It is possible that ELI will contribute to forming a *ius commune europaeum* and will thus permit EU law to develop further and in a more unified manner.

The organisers have asked me to speak about the potential importance of ELI for the European Court of Justice (ECJ), as well as for its judges and Advocates General. In this regard, I would like to stress a few points:

First, the ECJ comprises 35 members (27 judges and 8 Advocates General). The members of the ECJ come from 27 Member States and therefore from 27 different legal systems. The members are specialists in different legal systems: in continental legal system or in the common law system, in the field of public or private law, substantive or procedural law. We have studied in different law faculties in different countries and have exercised various legal functions. We come from different language areas. There are currently 23 official languages at the ECJ; the internal working language is, however, French. Judges work in chambers where – in the process of deliberation – they need to take a decision choosing between several different solutions, a decision that might also have to reconcile different legal systems and different legal concepts.

In the framework of the preliminary rulings procedure, the ECJ is in *dialogue juridique* with national courts of 27 Member States. It is in contact with 27 legal systems (or possibly more, for example, in the case of federal states), therefore

¹ * The opinions expressed in this speech are exclusively the opinions of the author and do not reflect the views of the ECJ.

the knowledge and comparative analysis of the development of the theory, case-law and legislation in different Member States is also of considerable importance.

Secondly, as you know, the **judgments of the ECJ** are influenced by the French system; this means that they are short without citing literature and without a comparative-law analysis. This however does not mean that the judges are not aware of these theoretical and comparative developments and that it does not influence their decision-making.

Third, the **Advocates General** play an important role at the ECJ. Legal theory is not only cited in our opinions, but it also influences our analysis and decisions. A comparative law analysis is also common. Both – legal theory and comparative analysis – can influence the final solution. Moreover, a confrontation with different viewpoints helps us to strengthen our arguments for or against a certain solution.

In this regard, it is important to point out that the ECJ disposes of an internal research and documentation department (*Direction de la recherche et documentation*) with lawyers from all legal systems of the EU. One of the main tasks of this department is the preparation, on the request of the members of the ECJ, of so-called “notes de recherche”. Those “notes de recherche” are usually requested in cases where diverging national solutions to specific legal questions might influence the jurisprudence of the ECJ. The main goal of those “notes de recherche” is to present overviews of national regulations and national case-law on specific topics. However, they usually do not contain detailed scientific analyses.

Against this background, I am convinced that ELI is well-placed to assist the ECJ in its tasks of interpreting EU legal acts and of developing its existing case law by

- analysing ECJ case-law, thereby helping the members of the ECJ to reflect upon their decisions and thus paving the way for the further development of its case law;
- preparing studies and analyses in different fields of national law which touch upon EU law. Such studies and analyses could provide the judges and the Advocates General of the ECJ with general background information that is often necessary for the interpretation and application of EU law;
- highlighting different methods of interpretation (literal, systematic, teleological, historical) of EU legal acts as well as different solutions arrived at on the basis of these methods of interpretation. The proposals

developed by ELI concerning the development of EU law and concerning its better transposition in Member States could serve as an indication for deciding for one or the other solution.

In my opinion, ELI could also play an important role with regard to other activities concerning EU law. It can, in particular,

- play an active role in the process of preparing new legal acts (directives, regulations) at EU level by commenting and analysing the proposals for those legal acts and by suggesting improvements;
- provide comprehensive analyses about the application, transposition and implementation of EU law provisions in Member States;
- provide critical analysis of the existing *acquis communautaire* and proposals for changes and improvements.

The influence of ELI will of course depend on the quality and quantity of its work. I hope that it will also undertake more extensive research projects on the potential of harmonisation in certain fields of law. In the past, such research projects were, for example, the PECL (Principles of European Contract Law) and the Common Frame of Reference. Despite certain criticism of these projects, I am personally of the view that it contains several useful proposals that can often serve as a reflection about the adequacy of current EU legislation.

I also find it particularly important that ELI establishes a connection with different legal professions, that it expands its field of research into all areas of law and that it interacts with other associations that are active in the field of EU law. In this regard I would suggest that ELI establishes a link with two other lawyers' associations from all EU Member States, namely the European Jurists' Forum and FIDE (*Fédération Internationale de Droit Européen* – International Federation for European Law).

I wish ELI success in taking its first steps and going on to great things. Therefore I wish ELI: *Vivat, crescat, floreat!*