

Professor Dr. Martin Selmayr

Head of Cabinet of Viviane Reding, Vice-President of the European Commission and EU Justice Commissioner

The Foundation of a European Law Institute: the Planting of a Little "Apple Tree" for a European Legal Culture

**Institut européen du droit, Congrès d'ouverture
Paris, 1 juin 2011**

Monsieur le Président,
Monsieur le Garde des Sceaux,
Mesdames et Messieurs les Présidents,
Monsieur le Député européen,
Monsieur le Président Jacobs,
Madame la Vice-présidente Fauvarque-Cosson
Mesdames et Messieurs, chers collègues

Quel honneur d'être parmi vous aujourd'hui pour célébrer un moment historique de la construction européenne.

Quel plaisir de voir les têtes les plus éminentes de la communauté juridique rassemblées aujourd'hui ici à Paris pour réaliser un vieux rêve : la création d'un Institut européen du droit.

Au nom de la Commission européenne, et de sa Vice-présidente, Viviane Reding, la Commissaire à la Justice, je ne peux que vous féliciter tous pour cet important projet.

J'aimerais remercier notamment la France, et merci à vous, Monsieur le Garde des Sceaux, d'accueillir le Congrès fondateur de l'Institut européen du droit. Merci aussi à la France d'avoir mis à la disposition de l'Europe le Professeur Bénédicte Fauvarque-Cosson, qui sera la Vice-présidente de l'Institut et qui est par ailleurs aussi le conseiller spécial très apprécié de la Vice-présidente de la Commission européenne.

Ladies and gentlemen, dear colleagues,

Martin Luther once said, according to a legend: "And if I knew that tomorrow the world would end, I would nevertheless plant today a small apple tree"

If we read the newspaper these days, and if we believe all we read, we sometimes may get a pessimistic perspective for the future of our continent.

It is therefore to be very much welcomed that not everyone is a pessimist in these days. Pessimism has the potential to lead to self-fulfilling prophecies, which again accelerate negative developments. If I look around in this room today, I see the contrary of pessimism. I see the brightest legal minds of Europe who have come together, who have bridged their differences and combined their forces. To create something new. To create something unprecedented. To create a European Law Institute.

Ladies and gentlemen, dear colleagues, on behalf of the European Commission, and of its Vice-President Viviane Reding, our EU Justice Commissioner, many thanks and congratulations for having planted this little apple tree. We need several little apple trees to grow if we want to secure a further positive development of our continent.

The European Commission welcomes in particular that the little apple tree which you are planting today is dedicated to European Law. Europe's strength has always been that it is a Community of

law, a "Communauté de droit", a "Rechtsgemeinschaft", as Walter Hallstein, the first President of the European Commission rightly said. Our continent has not been united by wars or armed force, but by the powerful and peaceful force of the law which Europe's common Members States and European institutions are creating. This is why the European Law Institute can make a very important contribution to further strengthening and developing our common European Law and the underlying European Legal Culture. This is why the Commission supported the creation of a European Law Institute already in the Justice Chapter of the Action Plan on the Stockholm Programme.

Ladies and gentlemen,

If one reads the EU Treaties, one can come to the conclusion that the idea of a European Law Institute must have already been on the minds of Europe's Founding Fathers.

In an almost hidden place, in what is today Article 340 paragraph 2 of the Treaty on the Functioning of the European Union, it says – and you all know this provision by heart – that in the case of non contractual liability, the Union shall make good any damage caused by its institutions or by its servants. The Union shall do this (and I quote) "In accordance with the general principles, common to the laws of the Member States

Ladies and gentlemen,

One could hardly better give an incentive for the creation of a European Law Institute. General principles which are common to the laws of our 27 Member States – to identify these, whether in the field of administrative, civil or criminal law, requires intense comparative legal research, an informed legal discourse between legal systems and the readiness to develop common principles out of the existing legal diversity.

I therefore welcome that the European Law Institute intends to make a strong contribution to this important work

I also welcome that you have committed to becoming more than a mere academic institute. The involvement of judges, lawyers, notaries and other legal professionals, next to academics, will be of decisive importance, for the successful development of an authentic and respected European Law Institute. I may add to this that openness to interdisciplinary thinking will certainly also strengthen the European Law Institute. It helps if we lawyers speak from time to time to an economist, for example.

Ladies and gentlemen,

It is certainly no coincidence that just one year after the European Commission created its own Directorate-General JUSTICE, under the authority of Vice-President Reding, you are today creating a European Law Institute. The Treaty of Lisbon has made European Law even more important than ever before, notably with the inclusion of the former third pillar in the Community method and with the entry into force of the Charter of Fundamental Rights

which is binding for all EU institutions and therefore bound to have a significant impact on all EU Legislation.

The European Law Institute can therefore expect the European Commission, and notably its Justice department, to become a reliable sparring partner for your future work. The European Law Institute is an independent, private organisation and I welcome this. This will give you the authority and the reputational strength that a European Law Institute needs. This will make your advice valuable for all those who have to decide on the future directions of European Law.

Today, I can see the important projects on the horizon where work and advice of the European Law Institute will be particularly needed.

First, the development of European administrative law, notably European administrative procedural law.

Second, the development of European Criminal Law, where the Lisbon Treaty gives the EU legislator for the first time the power to establish minimum rules on the definition of criminal affairs and of criminal sanctions in certain areas and even foresees the establishment of a European Public Prosecutor to fight against fraud to the detriment of the European Union's financial interests.

Thirdly, the development of European contract law, in the B2C and possibly in the B2B context.

I know that the third subject is close to the heart of many here in the room today. It is an area where you can expect the European Commission to try out new approaches over the coming years. You all know that Viviane Reding, the EU Justice Commissioner, favours personally the idea of an optional instrument for European contracts, an instrument that businesses and consumers can choose for their transactions in the EU's internal market. Some of you may sometimes wonder about Ms Reding's determination with regard to this project. Well, to say it simply: Ms Reding is like you. She is an optimist. And sometimes, this requires planting "a little apple tree".

Ladies and gentlemen,

Congratulations again for having today planted today, with the European Law Institute, a little apple tree for Europe's Legal Culture. May this tree grow over the years. May it prosper. And may it bear many, many fruits. For the benefit of European Law. And for the benefit of the citizens of our European Union.

Thanks a lot for your attention.