

Inaugural Congress of the European Law Institute

“Towards a common legal culture in Europe”, Bénédicte Fauvarque-Cosson, Vice-president of the ELI, professor at the University Panthéon-Assas, Paris.

This first session of the Inaugural Congress of the European Law Institute, dedicated to “a common legal culture in Europe”, is a tribute to the role played by national and European judges in the formation and development of European law, as well as of a European legal culture¹. A “community of judges” is being formed, through various networks, some of them represented here today. Much is written about judicial “dialogue” or “judicial conversation” and on a “community of judges”. In order to realize its aims and stimulate the development of European law, the ELI will encourage the dialogue between judges and, most importantly in view of its objectives, *with* judges.

In a book entitled *WHEN LEGAL ORDERS COLLIDE : THE ROLE OF COURTS*”, Professor Sabino Cassese, who is also a judge at the Corte Constitutionale, asks this question : in a world full of sectoral legal orders beyond those of Nation States, how and by whom can harmony or at least coexistence be ensured ? Sabino Cassese’s answer is: “Neither soldiers nor ambassadors”, but judges “as the builders of the global system of legal orders”. Sabino Cassese shows that, as State sovereignty is becoming diluted and public power rearticulated in pluralistic and polycentric forms, there is a “denationalisation of the law” and the courts are assuming an “important role in the definition of the relation between legal orders.” They also fulfil an important role in removing from isolation the various different legal orders existing at various different levels and have an “integrative role”.

The development of multiple networks and groups of experts, sometimes encouraged by the European institutions themselves and at other times completely independent, has led to the foundation of the ELI, an important step in the process of building a common European legal culture. Within these networks, practitioners, judges and academics work together, beyond national frontiers, in a globalised legal space. They draw together the different legal traditions from across Europe and take the best from each.

Among European lawyers, interest in comparative law, far from declining due to the considerable attention paid to the unification and harmonisation of the laws has remarkably strengthened. It often takes the form of a cooperation among lawyers from all European cultures and traditions. Yet, so far, there was not, in Europe, an institution which, like the American Law Institute (ALI), gathers together academics, judges and practitioners.

The ELI is based on the diversity of legal traditions, disciplines and professions; at the same time, it strengthens the links between all these legal traditions and stresses their common inheritance. The European Law Institute is a forum for all those who want to think and work beyond their State, to meet and jointly participate to innovative projects, with a great diversity

¹ This session featured :

- Mr Vassilios Skouris, the 10 th President of the ECJ
- Mr Jean-Marc Sauvé, Vice president of the French Conseil d’Etat, vice-president of the Association of the Councils of State and Supreme Administrative Jurisdictions of the EU. –
- Mrs Irmgard Griss, president of the Austrian Supreme court and president of the networks of the presidents of the supreme judicial courts of the European Union.
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of perspective and openness to interdisciplinary thinking. The ELI will contribute to the process of European integration by encouraging projects that create new links between the national legal systems in Europe.

Since it is inherently transnational, the ELI will address cross-border challenges in law and engage internationally. Thus, it will also be an important forum for the globalization of the law, both within and outside Europe.