



**Council Decision CD 2012/1bis
of 30 January 2012
on the ELI Project Guidelines**

In accordance with Article 12(5) of the Statute, the Council has approved via electronic vote the following Guidelines for the selection of ELI projects which replace the preliminary project guidelines determined in Council Decision 2011/7. In light of comments received during the voting procedure and later during the Council meeting of 18 February, these Guidelines will be revised in due time.

ELI Project Guidelines

The Guidelines consist of four parts: a preamble, content requirements, technical requirements, and procedures

A. Preamble

1. The Guidelines for the Selection, Management and Approval of ELI Projects (the Guidelines) are made under Article 12(5) and 15 of the European Law Institute's Articles of Association (the Statute). They are issued pursuant to Council decision 2012/1bis on 30 January 2012.
2. These Guidelines establish how the ELI seeks to achieve its aims through projects which are carried out under its auspices (ELI Projects).
3. Nothing in these Guidelines shall prevent the ELI from embarking on other activities within the fields outlined in Article 3 of the Statute. Where the ELI acts upon consultation by institutions at European Union, international, or national level, or where the ELI conducts projects jointly with other organisations these Guidelines shall apply with appropriate adaptations.
4. The ELI will normally propose, design, and develop projects on its own initiative. It will do so in the light of suggestions made by ELI members or external bodies and organisations and taking into consideration expert advice.
5. In exceptional circumstances, the ELI may adopt projects that have originated outside the ELI and/or have already commenced outside the ELI (Adopted Projects / see Annex A).

B. Content Requirements

I. Types of ELI Projects

6. There are two types of ELI Project: ELI Instruments and ELI Statements. The former are medium-to-long-term projects in fields where the ELI takes a proactive role, while the latter will include ad-hoc reactions to current developments.
7. Examples of ELI Instruments are: a) draft legislative instruments, European or otherwise; b) model codes, laws, or rules; c) restatements of the law; d) statements of principle; or e) implementation studies. ELI Instruments are usually carried out under the regular procedure under Article 12(3) of the Statute.
8. Examples of ELI Statements are: a) reviews or proposed revisions of European Union, international or other legislative proposals; or b) position papers. ELI Statements are usually carried out under the accelerated procedure under Article 12(4) of the Statute.

II. Project Selection Criteria

9. Any ELI Project must

(a) fall within the scope of Article 3 of the Statute. It must therefore seek to:

(i) make proposals for the further development of the *acquis* and for the enhancement of EU law implementation by the Member States;

(ii) evaluate and stimulate the development of European law, legal policy, and practice;

(iii) identify and analyse legal developments in areas within the competence of Member States which are relevant at the European level;

(iv) study European approaches regarding international law and enhance the role European law could play globally; or

(v) facilitate pan-European research, in particular drafting, evaluating or improving principles and rules which are common to the European legal systems;

(b) condense into results that potentially have an immediate practical impact, in particular one which might be directly usable by legislative bodies, judiciaries, or other players (e.g. as draft rules);

(c) be at the service of the European citizen and respond to a manifest practical need;

(d) enhance European legal integration and the current state of the art in the relevant field; and

(e) be developed from a genuinely pan-European perspective and take due account of the achievements of Europe's various legal traditions.

C. Technical Requirements

III. Project consultation and acceptance

10. The ELI Council's standing committee on projects (the Project Committee) is responsible for identifying potential ELI Projects and submitting, in the light of the project selection criteria, project proposals to the ELI Council. It will do so in consultation with the ELI Senate and the Executive Committee as well as other relevant stakeholders. Any ELI member, observer, institutional observer or other interested party may contact the Project Committee to propose a project.
11. A project proposal must specify:
 - (a) its subject matter and the concrete end product that it seeks to achieve (e.g. a draft legislative proposal);
 - (b) whether it should be an ELI Instrument or ELI Statement and whether it should be conducted under the regular or the accelerated procedure (cf. Article 12(3) and (4) of the Statute);
 - (c) how the project satisfies the project selection criteria; (d) the timescale in which it is to be conducted;
 - (e) the names and a short curriculum vitae of any individuals who might be asked to conduct the project either as a project reporter or member of its project team or Advisory Committee; and
 - (f) as far as possible, a funding scheme.

IV. Project financing

12. ELI Projects will be either self-financed or financed from external sources. It is essential that funding questions are resolved as early as possible during the project consultation process. This is particularly important where it is anticipated that a project will be financed by an external body. The financial plan can be submitted to the ELI after the project has been accepted based on the merits of its content. If financial resources are not secured the project will be discontinued based on a decision by the Council.
13. The ELI can only accept external funding for projects if it is provided on the express basis that it is provided free and independent of any condition concerning the nature, scope and outcome of the relevant project. Express, written confirmation that funds are being donated to the ELI on this basis must be received by the ELI from the donor before any funds are transferred to the ELI.

D. Procedures

V. General Rules

14. Once a project proposal has been endorsed by the Project Committee, it will be submitted to the Council. The Council will decide whether to accept it as an ELI project. The Project Committee will propose whether it should be carried out under the regular or under the accelerated procedure. The Council will take a decision and may also refer the proposal back to the Project Committee for revision.
15. Where the Council accepts a project, it will appoint one or more project reporters, who have special expertise in the project's field of study and who will be responsible for the conduct of the project. The appointment may be made after a call for tender. The Council will, when appointing the project reporter or reporters, take account of any recommendations made by the Project Committee in the project proposal.
16. All project reporters will be assisted by a team of project advisors (the Advisory Committee) who have expertise in the project's field of study. Each Advisory Committee's membership must reflect the diversity of legal professions and legal traditions found within Europe. Advisory committees will have no fewer than [insert number] and no more than [insert number] members.
17. It is the project reporter or reporters' responsibility, in consultation with the Executive and Project Committees, to make proposals for individuals who might be appointed as advisors. The Council (under the accelerated Procedure: the Executive Committee) will, upon consideration of these proposals, appoint the members of the advisory committee.
18. Once a project is accepted by the Council, the Secretariat will invite the ELI's members to join the Members' Consultative Committee. Anyone wishing to join should inform the Secretariat of that fact within three weeks of notification. Establishment of a Members' Consultative Committee is compulsory for all ELI projects carried out under the regular procedure. Each Consultative Committee will be co-ordinated by the ELI's Secretariat in consultation with the project reporter or reporters.
19. Individuals involved in carrying out ELI projects do so for and on behalf of the ELI and are bound by its conflict of interest rules: see Statute, article 16 and any Code of Conduct issued by the ELI. They should always ensure that they avoid any potential or actual conflict of interest. In case of an actual or expected conflict of interest the member is obliged to inform the Project Committee and the Secretariat. The Council, after consulting the Project Committee, will then decide whether the respective member is eligible to continue her/his work in the project.

20. Project reporters must regularly inform the Secretariat of ELI on the progress of the project. The Secretariat will then inform the Executive Committee, the Project Committee, the Senate and the Council of its progress. Any revision of the project timetable must be agreed upon with the Project Committee and the Executive Committee.
21. If it becomes apparent that a project is not progressing according to the agreed timetable, the Council has the right to review the project's status. This may result in the Council replacing the project reporter or reporters and/or Advisory Committee. In the last resort, the Council may decide to discontinue the project as an ELI project.

VI. Project Management – ELI Instruments

22. Once a project has been approved, it is the reporter or reporters' responsibility to develop a detailed project plan including a timetable, intermediate milestones and deliverables.
23. The project plan will, once completed, be circulated to the Advisory Committee, the Members' Consultative Committee and the Senate for comment. The project reporter or reporters are not bound to take account of any comments received during this process.

Initial draft report

24. Once the project plan has been finalised, the project reporter or reporters will prepare an initial draft report in accordance with the timeframe set out in the project plan.
25. Once completed the initial draft report will be submitted for comment to the Advisory Committee and the Members' Consultative Committee. The draft report may also be published for a wider consultation. The consultation period shall not exceed two months. The project reporter or reporters should pay particular attention to any comments received at this stage, especially those received from the Advisory Committee, due to its particular expertise in the field, and the Members' Consultative Committee.

Second draft

26. The project reporter or reporters will, in consultation with the Advisory Committee and Members' Consultative Committee, prepare a second draft report in the light of the comments on the initial draft report. The completed second draft should then be submitted to the Project and Executive Committees, the Senate, the Advisory Committee and the Members' Consultative Committee for critical comments and revisions. This revision process shall not last longer than two months.

Council draft

27. The project reporter or reporters should revise the second draft report in the light of the comments on it. This draft will be submitted to the Project Committee, which will consider whether it is ready to go forward to the Council and Senate for consideration. Where it is not yet ready, the Project Committee will refer it back to the reporter with a short explanation of the ways in which it views the draft to be defective. The draft should be revised in the light of the Project Committee's comments and resubmitted.
28. Where the Project Committee considers the draft ready, it will forward it to the Council and Senate. The Council will review the draft. Any Council member may submit comments to the project reporter or reporters. A Council meeting should thereafter be held in which the draft report is presented and discussed by the Council and project reporter or reporters. Serious consideration should be given by the reporter or reporters to any comments made by the Council
29. Members of the Senate may provide any comments they have on the draft in writing. The Senate may also hold a meeting with the project reporter or reporters to discuss the draft and its comments.

Final draft

30. The project reporter or reporters should prepare a final draft report, in consultation with the Project Committee, Advisory Committee and Members' Consultative Committee, in the light of the Council's and the Senate's comments. To the extent that the draft is not revised, the reporter or reporters should provide the Council and/or Senate with an explanation as to why that is the case.
31. Once completed, the final draft should be submitted by the project reporter or reporters to the Council for approval (see Completed Projects – Approval and Publication).

VII. Project Management – ELI Statements

32. The drafting process for ELI Statements will depend very much on the nature of the Statement itself and will have been defined in the project proposal.
33. It is the responsibility of the project reporter or reporters to ensure that an ELI Statement is completed in good time for it to be considered in draft by the Executive Committee, and where time permits the Project Committee and Senate. Depending on the project's timescale, such consideration may be carried out in writing or at a meeting.
34. The draft should then be revised in the light of any comments received from the Executive Committee and, where applicable, the Project Committee and Senate. A revised draft should then be submitted to the Executive Committee for approval. If approved by the Executive Committee, it should then be submitted to the Council for approval.

35. Once an ELI Project has been completed, it will be submitted to the Council for approval. Voting takes place at the Council meeting and / or electronically. The Council will endorse or reject the project or refer it back to the project reporter or reporters for revision.
36. Where the project is referred back for revision, the Council should identify which aspect or aspects require revision. The Council may also suggest how the project might be revised. Proposed revisions shall be sent to the project reporter or reporters. Once revised, the completed draft should then be resubmitted to the Council for approval.

VIII. Completed Projects – Approval and Publication

37. Where the project is an ELI Statement, once it is approved by the Council it is an official statement of the ELI (see Statute, article 12(4)). Approval is by majority vote of the voting Council members. The requirements specified in Art. 10 (9) (10) of the Statute are applicable.
38. Where the project is an ELI Instrument, once it has received Council approval it will be submitted to the General Assembly. The General Assembly may only approve or reject the project (Statute, Article 9(2)(d) and 9 (7)). Approval is by majority vote of the voting members. The requirements specified in Art 9 (7) of the Statutes are applicable. If approved, it is an official statement of ELI. Voting may take place at the meeting of the General Assembly and / or electronically.