

Draft Minutes of the ELI Council Meeting

16–17 March 2026

Venue: Online

Present:

Chair: Teresa Rodríguez de las Heras Ballell
(ELI President)

Council Members

Anagnostopoulou, Despoina
Augenhofer, Susanne (present on 17 March only)
Bachmaier Winter, Lorena (present on 16 March only)
Bagińska, Ewa (proxy for Machnikowski, Piotr – 16 March)
Başoğlu, Başak (proxy for Augenhofer, Susanne – 16 March)
Beale, Hugh
Bielska-Sobkowicz, Teresa (proxy for Wiewiorowska-Domagalska, Aneta)
Cannarsa, Michel (present on 17 March only)
Cavalier, Georges (proxy for Cannarsa, Michel – 16 March)
Cockerill, Sara
Craig QC (Hon), Paul (proxy for Mader, Oliver – 17 March)
Georgieva, Hristina (proxy for Zalar, Aleš – 17 March)
Gimeno-Ribes, Miguel (proxy for Touriñán, Teresa – 16 March morning)
Grasso, Gianluca (proxy for Pozzo, Barbara)
Jiménez Muñoz, Francisco Javier (proxy for Georges Cavalier – 16 March, second half)
Keane, Paul

Lehmann, Matthias (proxy for Janssen, André)
Machnikowski, Piotr (absence on 16 March 11:00–14:30)
Mader, Oliver (present on 16 March afternoon)
Maugeri, Maria Rosaria (proxy for Valle, Laura)
Mazepa, Svitlana (proxy for McCue McGuire, Mary-Rose – 17 March)
Poillot Peruzzetto, Sylvaine (present on 16 March)
Poncibò, Cristina
Pretelli, Ilaria (proxy for McGowan, Jon)
Ruda, Albert (proxy for Tot, Ivan – 16 March 15:15–17:30 and proxy for Bachmaier Winter, Lorena – 17 March)
Safta, Marieta (proxy for Camelia Toader – 17 March)
Santos Silva, Marta
Schulte-Nölke, Hans (proxy for Matthias Storme – 17 March)
Skrjabina, Anna (proxy for Valentina Calderai – 17 March)
Storme, Matthias (present on 16 March only)
Toader, Camelia (proxy for Marieta Safta – 16 March)

Keglevic Steffek, Ana (proxy for Scherpe, Jens)
Koch, Bernhard A (proxy for Neumayr, Matthias)
Kramer, Xandra
Kubica, María Lubomira

Tot, Ivan (absent on 16 March 15:15–17:30)
Touríñán Morandeira, Maria Teresa (absent on 16 March 09:00–13:30)
Valle, Laura

Ex-Officio Council Members

Rodríguez de las Heras Ballell, Teresa (President)
Vos, Sir Geoffrey (First Vice-President)
Sirena, Pietro (Second Vice-President, present on 16 March only)

Gammeljord, Anne Birgitte (Treasurer)
Taus, Mihai (President, European Land Registry Association (ELRA))
Tilman, Vincent (Secretary General, Council of the Notariats of the European Union (CNUE))

Other Attendees

Andersen, Henrik (present on 17 March only)
Gil Bazo, María Teresa (present 16 March only)
Harbinja, Edina (present 16 March only)
Nicholicchia, Fabio (present 16 March only)
Nowak, Celina (present 16 March only)
Sorabji, John (present 16 March only)

Ward, Adrian (present 16 March only)
Webb, Philippa (present on 17 March only)
Wendehorst, Christiane (ELI Scientific Director)
Zalar, Bostjan (present 16 March only)

Members of the ELI Secretariat

Wilcox, Vanessa (Secretary General, minute keeper)
Dolot, Regina
Ivanova, Nia
Lages de Almeida, Marta

Rebulet, Margot
Rivera, Erica

16 March 2026

The meeting commenced at 11:05 CET.

I. Welcome and Approval of the Agenda

- (1) ELI President, Teresa Rodríguez de las Heras Ballell, welcomed the Council. She thanked Marta Santos Silva for the willingness of her institute to host the Council meeting in Portugal and expressed the hope that the Council would have the opportunity to meet there in the future. She also thanked Sylvaine Poillot Peruzzetto, the French Hub, and the various institutional hosts for their efforts in preparing the forthcoming anniversary celebrations which will be positioned around rule of law, cultural engagement, and legal resilience. It is hoped that the Council will return to Vienna for an in-person meeting in spring 2027. The current online format is therefore considered a temporary arrangement.
- (2) Teresa Rodríguez de las Heras Ballell asked members to remain present throughout sessions where possible. The agenda was approved.

II. Report from ELI President

- (3) Teresa Rodríguez de las Heras Ballell introduced the first report of the new Presidency, following the elections of September 2025. It was emphasised that ELI has a vital role to play as a voice of the legal community and as a guardian of the rule of law at both European and global levels.
- (4) At the outset of the report, she paid tribute to the late Robert Bray, a member of the Council who passed away in December 2025. A letter of condolence has been sent to his family, and a minute of silence will be observed at the Annual Conference in his memory.
- (5) The President further expressed strong appreciation for the work of the Secretariat, noting not only its essential operational role but also its contribution in terms of ideas, creativity, and commitment during the first months of the new mandate. Particular thanks were also extended to the members of the Executive Committee for their close and constructive collaboration.
- (6) Teresa Rodríguez de las Heras Ballell explained that, over the first five months of the mandate, a substantial number of representational meetings had been held in order to reposition ELI strategically. She then outlined ELI's strategy, structured around three

principal pillars. First, the strengthening of financial autonomy through the development of a more professional and diversified fundraising strategy. This includes the appointment of a fundraising consultant, advisory support from experienced partners, and enhanced engagement with European institutions (several Directorates-General of the European Commission, including DG JUST, OLAF, DG GROW, DG TAXUD, DG EMPL, as well as with representatives of the European Parliament) in order to secure and broaden funding opportunities.

- (7) Secondly, in relation to operational stability, the President emphasised that ELI's growing influence must be matched by stronger internal structures, sound procedures and professional tools. In this context, reference was made to a needs assessment intended to identify institutional priorities and support a more coherent work programme. She also referred to a draft Policy on the Use of AI Tools in Drafting ELI Instruments, for which a Committee has been established to finalise the policy and provide oversight. In parallel, ELI has developed a draft Handbook for Reporters accompanying ELI projects, which will be complemented by citation rules and style guidelines, with a view to ensuring greater consistency across ELI publications. In addition, in order to increase engagement with ELI's instruments and encourage broader participation in its activities, Continuing Professional Development (CPD) recognition will be introduced for ELI webinars, complementing existing dissemination-focused formats.
- (8) Thirdly, the President highlighted the ambition to reinforce ELI's international role, as envisaged in its Statute. While firmly rooted as a European institution, ELI seeks to expand its global presence and impact through deeper international cooperation and increased visibility. In this regard, reference was made to engagement with a number of international organisations, including the World Bank Group (WBG), the Hague Conference on Private International Law (HCCH), the Council of Europe (CoE), the International Bar Association (IBA), the International Institute for the Unification of Private Law (UNIDROIT), the United Nations Commission on International Trade Law (UNCITRAL), the European Bank for Reconstruction and Development (EBRD), and the European Judicial Training Network (EJTN).
- (9) Overall, the report underscored the intention to position ELI as an influential and outward-looking institution, capable of responding effectively to contemporary legal and societal challenges while upholding its core mission.

- (10) Teresa Rodríguez de las Heras Ballell also referred to the ‘ELI in the World’ initiative, designed to mark the Institute’s 15th anniversary and to enhance its international profile through a series of externally supported engagements across approximately twenty jurisdictions globally, including in Asia, Africa, Europe, North America and South America. It was emphasised that these activities are, for the most part, externally funded.
- (11) Finally, the report referred to the Forum for Legal Resilience as an important element of ELI’s emerging strategic positioning and its intellectual contribution in the present context.

III. Treasurer

- (12) Anne Birgitte Gammeljord presented the financial forecast for 2026, noting in particular the projected small deficit and the underlying assumptions. She referred to a positive development in the collection of membership fees for 2026, particularly through the improved use of the Sheep payment system, which had already resulted in the collection of more than half of the annual fees at an early stage in the year. Nevertheless, a considerable number of members had yet to pay, and continued follow-up efforts were envisaged.
- (13) **The Council was invited to discharge 151 ELI Members of their outstanding debts following the cancellation of their memberships. The proposal was approved (32 in favour, 1 against, 5 abstentions).**
- (14) The Council was further invited to consider the discharge of the remaining ELI Members with outstanding debts following membership cancellation. It was agreed that a formal vote on this matter would be taken at a later stage.
- (15) Anne Birgitte Gammeljord expressed sincere thanks to the Secretariat for its extensive and diligent work.

IV. Membership Committee

- (16) Co-Chair of the Membership Committee, Matthias Lehmann, reported on membership developments, noting a net increase of 1.6% in individual membership despite cancellations, and a significant increase of approximately 18% in institutional membership.

- (17) It was highlighted that ELI continues to attract highly distinguished members, including practising judges at the highest levels. These efforts were described as contributing to the creation of new relationships and strengthening existing ones, with ELI increasingly seen as a valuable hub for legal collaboration.
- (18) Matthias Lehmann also referred to ongoing efforts to strengthen engagement with members, including initiatives such as ELI Members’ Day and the Sustaining Members’ Breakfast. He further observed a peak in SEPA applications, and invited Council members to join the scheme.
- (19) Teresa Rodríguez de las Heras Ballell expressed her sincere thanks to the Membership Committee for their support, and in particular to Matthias Lehmann and Xandra Kramer for their contributions.

Application of Courts

- (20) The Council considered proposals for reforming the membership admission procedure. Three options were presented, ranging from maintaining the current practice to introducing a more formalised role for the Council. Following successive votes (Option 1: 17 in favour, 18 against, 5 abstentions; Option 2: 14 in favour, 14 against, 5 abstentions; Option 3: 17 in favour, 16 against, 5 abstentions), **the Council adopted Option 3, a hybrid model under which the Membership Committee would retain primary responsibility for assessing applications, while the Council would be involved in cases raising particular sensitivities or objections.** This approach was considered to strike an appropriate balance between efficiency and oversight.
- (21) The Council then proceeded to consider two specific and sensitive applications for institutional membership. In framing the discussion, it was emphasised that the decision concerned the institutions as such, rather than their current composition or individual officeholders. It was also noted that these courts remained recognised within the European legal framework and had not been excluded from comparable international networks. **The Council approved both applications by majority vote. For the Supreme Court: 21 in favour, 9 against, 8 abstentions and for the Supreme Administrative Court: 20 in favour, 11 against, 6 abstentions).**

V. Projects and Similar Activities

(a) Model Rules on Succession of Digital Assets, Data and other Digital Remains

- (22) Teresa Rodríguez de las Heras Ballell opened the discussion by acknowledging the extensive work undertaken by the Reporters in refining the draft, as well as the sustained contributions of the Scientific Director and Council members Hugh Beale and Albert Ruda. The session followed the established format, comprising a presentation by the Co-Reporter, comments from the assessors, an open discussion among Council members.
- (23) Edina Harbinja, speaking on behalf of the drafting team, outlined the developments made since the previous Council meeting. She emphasised the intensive work carried out in recent months. Council members broadly welcomed the progress achieved, noting that the draft had evolved significantly. Xandra Kramer, *inter alia*, highlighted the advances made on private international law provisions. Teresa Rodríguez de las Heras Ballell also acting in her capacity as assessor, commended the clearer conceptualisation of the project, while raising a specific point concerning the notion of ‘control’, noting the continuing tension between factual and legal understandings of control across related instruments.
- (24) The Scientific Director, Christiane Wendehorst, praised the substantial improvements and the importance of the project, while identifying a number of remaining concerns. These included, in particular, the relationship between the concepts of digital remains, digital assets, and personal digital remains, as well as a lack of consistency between the black-letter rules and the accompanying commentary and within the commentary.
- (25) In response to questions raised by Council members regarding the options presented in the draft, Edina Harbinja clarified that the intention was not to promote both options simultaneously, but rather to offer alternatives for Council selection. She noted that Option 2 would likely be more acceptable, while Option 1 reflected a more ambitious policy approach. She also addressed questions relating to definitions. Further comments were received from Ilaria Pretelli, Hugh Beale and Sir Geoffrey Vos. The Secretary General of CNUE, Vincent Tilman, noted the practical difficulty of coordinating a unified position across CNUE jurisdictions given the short deadline within which the agenda/annexes are uploaded [this timeframe is stipulated under ELI’s Statute], indicating the feedback which had been received from the handful of members.

- (26) Following the discussion, the Council expressed its appreciation for the substantial work undertaken by the project team. The President warmly congratulated the team on the progress achieved. The discussion confirmed that, while the project is well advanced, a number of targeted refinements remain necessary. In particular, certain elements of the black-letter rules would benefit from further clarification, and the commentary should be strengthened to ensure full consistency and coherence. Members also emphasised the value of including concrete examples in the commentary, including in relation to social media accounts, chatbots, and avatars.
- (27) A central point of agreement concerned the private international law provisions, with clear support expressed for focusing on Option 2 as the preferred approach.
- (28) It was agreed that a small group of members, including the President, would support the Reporters in finalising the text.
- (29) **As regards next steps, the Council agreed that a revised version should be prepared in the coming weeks and circulated for review. Subject to satisfactory revision, the project will be submitted to a written vote in advance of the July Council meeting.**

(b) Digitalisation of Civil Justice Systems in Europe

- (30) John Sorabji presented the revised draft Principles, noting that the project has undergone substantial restructuring following earlier Council feedback. There was broad consensus that the project is well-developed, timely, and nearly ready for approval.
- (31) Lorena Bachmaier Winter referred to its strong consistency with European Commission priorities, noting that it addresses key cross-cutting issues on the digitalisation of justice. She raised the question of digital certification and the potential impact of future technological developments, particularly the transition to quantum computing. In the former context, she suggested that consideration should be given to the reliability of existing encrypted certificates and the risk that technological shifts could undermine current systems, proposing that these forward-looking dimensions could be reflected in the text.

- (32) Sir Geoffrey Vos expressed his appreciation to the Co-Reporters for the substantial transformation of the project. While welcoming the 25% reduction in length, he suggested that a further modest reduction, of approximately 10%, might still be possible to enhance readability, though he indicated that the current version would remain acceptable if further streamlining proved impracticable. Teresa Bielska-Sobkowicz also noted the significant progress made since earlier drafts.

(c) Advance Choices for Future Disablement

- (33) Ilaria Pretelli provided an update on the progress of the project, suggesting among other things that certain terminology could still be refined, in particular the use of the term ‘actor’ in Article 1(c), which may be misleading. With regard to Article 4, she indicated that the provision was difficult to follow, particularly the formulation concerning its effect. She confirmed that she would submit detailed written comments. Concern was raised with respect to the use of ‘in any form’ under Article 2(a) as this risked prioritising breadth at the expense of clarity.
- (34) Christiane Wendehorst opined that substantive criteria should be included in the black-letter rules so as to steer national legislators in a particular direction, not in the explanatory materials. She stressed that the question of when such statements should be applied or disapplied was of central importance and currently insufficiently addressed. She further observed that, while the draft referred to liberty and value creation, it did not sufficiently address the required degree of mental capacity. While certain aspects could be left to national law, she underlined that clearer guidance on criteria for application and disapplication was essential. She noted that she had submitted further detailed comments in writing.
- (35) Among other things, Sir Geoffrey Vos expressed concern regarding the term ‘robust’/‘robustness’, which he considered unclear in a legal context. Referring to Article 2(a), he questioned whether ‘robust’ was intended to mean ‘valid’. He also raised the broader question of the intended addressees of the draft.
- (36) Several members observed more generally that parts of the language remained opaque and that greater legal certainty would be required. On Article 5: Disapplication and adjustment, concerns were raised regarding the absence of clear criteria. Hugh Beale noted that he had submitted drafting suggestions to the team and queried whether the

text was intended to function as a legislative model or rather as a set of options for legislators to consider.

- (37) Adrian Ward addressed the above comments, among other things, emphasising that Ministries of Justice were among the intended audience and were often resistant to prescriptive approaches. He suggested that the draft should therefore focus on offering examples of what could be done, rather than directing national legislators. He confirmed that the notion of ‘robustness’ would be clarified in the explanatory notes.

(d) Corporate Criminal Liability in the European Union

- (38) Celina Nowak and Fabio Nicolichia updated those present on the changes made to their draft, noting that some of the comments received had been relatively narrow in scope. Further, as the objective of the project was to develop a broad set of rules capable of implementation across a wide range of legal orders, it had not been possible to incorporate all detailed suggestions put forward by individual experts.
- (39) Lorena Bachmaier Winter expressed her support for the approval of the draft. She noted that it was consistent with the recently adopted White Paper on the anti-fraud architecture of the European Commission and with the objectives of the European Anti-Fraud Office (OLAF). In her view, the draft successfully struck an appropriate balance between generality and precision. She described it as complete, comprehensive, and coherent, and raised no objections. Other members of the Council, including Miguel Gimeno-Ribes and Gianluca Grasso, also praised the constructive attitude of the Reporters.
- (40) Christiane Wendehorst described the project as excellent, timely, and well drafted. She welcomed in particular the expanded commentary, which she considered helpful, and expressed her agreement with the positive assessments already made by other members.
- (41) Hugh Beale raised several drafting points. Among others, in relation to Article 3, he noted that the provision did not appear to address situations where management instructs an employee to engage in conduct that constitutes a criminal offence. On Article 8, he expressed concern that the limitation appeared circular. He further observed that corporate criminal liability should not arise where a statute explicitly excludes such

- liability, and questioned how the draft would operate in jurisdictions lacking specific statutory provisions on major crimes.
- (42) Camelia Toader agreed with the concerns raised by Hugh Beale. She further noted the absence of references to the case law of the Court of Justice of the European Union and the European Public Prosecutor's Office, despite the existence of relevant decisions, and invited the Reporters to consider this.
- (43) Maria Kubica observed that, in some jurisdictions, liability is primarily addressed through civil rather than criminal law, with enforcement largely situated within judicial frameworks rather than criminal codes. Among other observations, support was expressed for Article 4(2), which was considered consistent with the Principles of European Tort Law,.
- (44) Celina Nowak clarified that issues relating to the European Public Prosecutor's Office (EPPO), etc were being addressed in a separate publication to be published by Routledge. She requested that the Secretariat facilitate contact by sharing email addresses with Hugh Beale and Maria Kubica.
- (45) Sylvaine Poillot-Peruzzetto congratulated the Reporters on a clear and well-structured project. Drawing on her experience in competition law, she raised the question of whether alternative sanctions for companies, such as exclusion from public procurement procedures, might in some cases be more effective than fines. In response, it was noted that the issue of sanctions had been addressed in the draft, but that the choice of sanction type had been left to the discretion of national legal orders.
- (46) Fabio Nicolichia further clarified that the proposal was grounded in national reports and legal systems as a starting point, with the aim of developing a feasible and broadly applicable framework. While European and EPPO perspectives were not always explicitly foregrounded, they had been taken into account in the broader work. Reference was made to Article 5, which provides for different types of sanctions.
- (47) The ELI President thanked the Co-Reporters and assessors and others for their valuable contributions to the discussion.

(48) **The Council proceeded to a vote. The draft was approved with 30 votes in favour, 2 votes against, and 8 abstentions. The draft will be published as an ELI instrument on approval by members.**

(e) Update of ELI’s Detention of Asylum Seekers and Irregular Migrants and the Rule of Law: Checklists and European Standards

(49) Boštjan Zalar introduced the next stage of the above project.

(50) Sir Geoffrey Vos suggested placing the explanatory notes alongside the individual standards, among others. **It was agreed that no redlined version will be submitted to the Council in future. Members agreed on the proposed timing stated in the relevant annex.**

(51) Christiane Wendehorst, congratulated the team on the extensive work undertaken. She confirmed that the text would be published as a clean version. While sharing concerns regarding accessibility, she suggested that the material could be presented in an innovative way on the ELI website, for example as an interactive tool allowing intuitive navigation between sections. She noted that this would require additional programming effort and could be discussed further with the team. She emphasised that the work was both timely and of high quality.

(52) Sylvaine Poillot Peruzzetto raised the question whether figures on detention should remain in the text. She also suggested including a table of standards at the beginning and queried whether Section 4 could be moved forward, so as to serve as an introduction to Sections 1, 2 and 3.

(53) Boštjan Zalar noted that the overall length of the draft remains comparable to the 2017 version, as the explanatory notes have been shortened in favour of numerous cross-references but that updates needed to be added. He indicated that the notes would be placed at the end of the checklists.

(54) It was further proposed that the standards and checklists be presented first, followed by the same including commentary.

- (55) Teresa Rodríguez de las Heras Ballell, confirmed that the agenda for the first day had been completed efficiently. The meeting will resume the following day at 09:00 CET. Four projects are scheduled for discussion, of which only one will be subject to a vote.

The meeting closed at 17:20 CET.

17 March 2026

(56) The meeting commenced at 09:00 CET. The President informed the Council that, due to travel delays affecting Henrik Andersen, a reshuffling of the agenda had been necessary. It was therefore decided to begin with ELI Model Contractual Terms project first.

(f) ELI Model Contractual Terms on Digital Assistants in Consumer and Business Transactions (B2C and B2B), in collaboration with UNCITRAL

(57) Teresa Rodríguez de las Heras Ballell, explained that that the project will begin with the B2B segment, followed by B2C. To incorporate all relevant stakeholders and to promote model rules, she referred to an event organised by ELI Member, the European Consumer Organisation (BEUC) on 18 March 2026.

(58) The project was presented as having significant international impact. A joint initiative with the United Nations, in particular UNCITRAL, is planned. The UNCITRAL Secretariat is already cooperating on the project. Given that the UNCITRAL Commission will meet in June/July, formal reference to collaboration in the title remains pending Commission endorsement in New York. This explains the current provisional title. She went on to explain that the model contractual terms are inspired by the UNCITRAL Model Commercial Contracts and the ELI Model Rules. It was noted that such model contractual terms could be used at different stages, including pre-negotiation and potentially within preliminary or framework agreements. The contractual relationships envisaged include those between platform operators and users, as well as between users themselves. Selected legal issues to be addressed include attribution and risks related to unexpected outcomes.

(59) Questions were received among others by Marta Santos Silva and addressed. Hugh Beale noted that while contractual aspects form one part of the project, ELI's work could extend more broadly to cover additional dimensions, even if UNCITRAL's involvement may be more limited.

(60) Teresa Rodríguez de las Heras Ballell agreed and described the project as consisting of three layers: first, model contractual terms (Contract 1); second, a B2B framework in line with the UNCITRAL Model Law, to be developed in cooperation with UNCITRAL and potentially disseminated through its channels; and third, a B2C component (Contract 2),

addressing consumers and possibly third parties, in coordination with the European Commission.

- (61) Christiane Wendehorst, described the project as excellent and emphasised its institutional importance. She highlighted the distinction between preliminary agreements and framework agreements, noting that preliminary agreements may function as framework agreements for a single transaction. She suggested that standardised model contractual terms could facilitate referencing (eg 'MCT 3.1') and should be reflected in the introduction.
- (62) While supporting the overall approach, she observed that certain options are drafted in a legislative style and queried whether parties might instead prefer more concrete templates. She also suggested considering thresholds for the extent to which agents may contract on behalf of parties. The document was nevertheless described as excellent. Michel Cannarsa raised the possibility of including a cooling-off period, for example allowing one week for a contracting party to confirm its decision.
- (63) In response, Teresa Rodríguez de las Heras Ballell noted, among others, that clarification may be needed for parties operating in the absence of a regulatory framework and indicated that the practicality of the proposed approach would be further considered. It was suggested that the model contractual terms could function similarly to Incoterms, and that the possibility could be explored. Some hesitation was expressed regarding the appropriate level of detail.

(g) Guiding Principles on Seizing and Confiscating Sanctioned Assets

- (64) The President opened the discussion by commending the project as a ground-breaking contribution. Sir Geoffrey Vos, the Project's Chair and Philippa Webb, one of the Reporters, updated the Council on recent developments. The rationale for adding the term 'Confiscating' to the title was explained, reflecting the increasing focus of the project.
- (65) Members welcomed the significant progress achieved within a short timeframe, with Dame Sara Cockerill praising the team's work as both timely and ambitious. In her view, the draft successfully combines rigorous legal analysis with a practical and accessible structure, enabling even non-specialists to engage with the material. She suggested,

however, that the statement of principles should precede the flowchart and expressed reservations regarding the treatment of seizure, noting a perceived imbalance between seizure and confiscation. She further raised questions concerning due process protections in the context of asset seizure.

- (66) Christiane Wendehorst echoed the strong support for the project and agreed that there appeared to be an imbalance between the treatment of seizure and confiscation. She also suggested the team revisit the ordering of the black letter rules, among others.
- (67) Piotr Machinokwski raised drafting concerns, particularly in relation to definitions. He noted that while ‘freezing’ and ‘confiscation’ were defined, ‘seizure’ was not clearly addressed. He further observed that certain definitions appeared to take on a normative character rather than serving as purely descriptive terms. Questions were also raised regarding attribution and causation in international law, including with respect to reference to wrongs being directly attributable to, and proximately caused by the wrongful act (GP 15). Concerns were expressed regarding proportionality, particularly where a measure should be proportionate to the gravity of a breach, as here the distinction between compensatory and punitive measures is not sufficiently clear.
- (68) Matthias Lehmann supported the overall direction of the project but reiterated that seizure required more detailed treatment. He suggested extending the relevant principles to address seizure explicitly, including clarification as to which assets may be frozen, seized, or confiscated, the possibility of cross-border freezing measures, and the use of confiscated assets for the reparation of harm caused by violations of international law.
- (69) **There was broad consensus that the project would benefit from following the Institute’s usual Members Consultative Committee and full membership approval procedures, as this would enhance its legitimacy without significantly extending the timeline.**

(h) Tokenisation and Real Estate

- (70) The President, a prospective Reporter, introduced the proposal by highlighting the Institute’s leading position in related fields, including digital assets, security, enforcement, and succession. It was noted that earlier projects had not addressed immovable property, and that the present initiative could represent an important step in strengthening cooperation with key partners, including the CNUE, the European Land Registry

Association (ELRA), and the IBA. The project was also framed as contributing to broader societal concerns, including accessibility and affordability of housing, as well as risks linked to speculation and shadow banking. The possibility of developing a joint project with global reach was emphasised, with the scope to be further refined. Teresa Rodríguez de las Heras Ballell noted that the project may need to be structured across different strands.

- (71) Michel Cannarsa, a prospective Reporter, highlighted that much of the current work in this area is taking place outside Europe, making translation and adaptation particularly relevant. He noted that the title of the project may need to evolve, as the focus lies in rendering immovable property more liquid through fractionalisation and tokenisation. While acknowledging the risks of speculation, he emphasised that these developments are supported by ongoing discussions at the level of the Council of the European Union's Economic and Financial Affairs Council (ECOFIN) and potentially the European Central Bank (ECB), particularly in light of their relevance for financial markets and possible links to the digital euro. He further noted developments in other jurisdictions, including the United States, where policy shifts towards stablecoins may influence global dynamics. The discussion was therefore situated not in relation to property rights as such, but rather to digital representations of assets, including tokens and stablecoins, and their regulatory treatment, including under MiCA (Markets in Crypto-Assets) und MiFID II (Markets in Financial Instruments Directive II) EU regulatory frameworks.
- (72) Among other things, Teresa Touriñán, a prospective Reporter, underlined the importance of engaging networks such as land registers and emphasised the relevance of taxation issues. President of ELRA, Mihai Taus, welcomed the proposal but stressed the importance of clearly defining the scope and ensuring that the project remains concrete and operational rather than purely theoretical. He suggested examining in which specific cases tokenisation may offer advantages over existing frameworks, including in contexts such as asset seizure.
- (73) Vincent Tilman highlighted the sensitivity of the topic in relation to access to affordable housing and noted that notaries are already closely observing developments in this field. He emphasised the importance of clarifying the scope and exploring whether consensus can be reached, including identifying potential red lines. He further noted the importance of third-party funding and indicated that the project would be discussed at the upcoming CNUE General Assembly.

- (74) Michel Cannarsa considered that the project could be highly relevant for European policymakers, particularly within a timeframe of 1.5 to 2 years, given developments related to the digital euro. He cautioned, however, that such mechanisms should not be incentivised without appropriate safeguards.
- (75) Teresa Rodríguez de las Heras Ballell underlined the risk of missing the appropriate timing, noting that a delayed engagement could reduce the project’s impact. She suggested that approval could be considered subject to a clearer definition of scope.
- (76) Several members of the Council emphasised that scoping would be critical. While the involvement of multiple organisations provides a degree of assurance, it also calls for adherence to the Institute’s standard procedures. In this context, it was suggested that further preparatory work would strengthen the proposal. The importance of focusing on private law questions and identifying any regulatory implications was emphasised.
- (77) **Following discussion, the Council expressed broad support for the underlying idea but agreed that further scoping work was required before proceeding. A vote confirmed that the feasibility study should be further developed prior to approval (31 in favour, 3 against, 8 abstentions), reflecting the desire to ensure its credibility across the European community.**
- (78) It was agreed to maintain the planned scoping meeting on 13 April.

(i) Climate Justice – New Challenges for Law and Judges

- (79) Henrik Andersen intervened. Among others, the Scientific Director, Christiane Wendehorst, considered that the draft strikes a good balance in terms of granularity. She noted, however, that the structure of the preamble is somewhat unusual.

VI. AoB

- (80) Teresa Rodríguez de las Heras Ballell noted the occasion of Susanne Augenhofer’s birthday and wished her the very best. She expressed thanks to Marta Santos Silva for her contribution to the first ‘ELI in the World’ initiative, taking place on 18 March 2026.

Gratitude was extended to Council members, the Executive Committee, the Scientific Director, and the Secretariat for their support.

The Council meeting ended at 11:50 CET.