

Draft Minutes of the ELI Council Meeting 5 July 2021, Remote

Venue: Remotely over Zoom

Present:

Chair: Wendehorst, Christiane (ELI President)

Council Members

Anderson, Ross
Avolio, Francesco
Bargelli, Elena (proxy for Scherpe, Jens)
Bielska-Sobkowicz, Teresa
Bray, Robert
Busch, Christoph
Cavalier, George (proxy for Giannakoula, Athina after 16:10 CET)
Clough, Mark QC (proxy for Avgerinos, Yannis)
Cotiga, Andra
Fauvarque-Cosson, Bénédicte
Forschner, Julius
Gammeljord, Anne Birgitte
Gimeno-Ribes, Miguel (proxy for Shirvindt, Andrey)
Guercio, Laura

Iamiceli, Paola (proxy for de Pretis, Daria)
Klip, André (proxy for Vervaele, John)
Malberti, Corrado (proxy for Biondi, Yuri)
Moser, Philip QC
Neumayr, Matthias
Pocar, Fausto (proxy for Giubboni, Stefano)
Povlakic, Meliha (proxy for Cvejic Jancic, Olga)
Rodríguez de las Heras Ballell, Teresa
Schroeter, Ulrich
Storme, Matthias
Tremosa, François
Twigg-Flesner, Christian (proxy for Busch, Christoph after 17:10)
Wiewiorowska-Domagalska, Aneta (proxy for Schulze, Reiner)

Ex-Officio Council Members

Lord Thomas, John
Philippe, Denis
Pichonnaz, Pascal (proxy for Fauvarque-Cosson, Bénédicte)

President of the International Union of Judicial Officers (UIHJ) Marc Schmitz
Wendehorst, Christiane

Other Attendees

Cohen, Neil (for the part on Data Economy)
Weise, Steven O. (for the part on Data Economy)

Members of the ELI Secretariat

Dudek, Tomasz (keeper of the minutes)
Fačková, Zuzana
Kolman, Katja

The meeting commenced at 16:00 CET.

I. Opening and Welcome

- (1) Wendehorst welcomed those present and thanked them for joining this second interim Council meeting. She believed it is an excellent way of relieving the main Council meetings in February and September from some items on the agenda.

II. Approval of the Agenda

- (2) **The agenda was approved.**

III. Approval of the Minutes of the Council Meetings of 14 April 2021

- (3) **The minutes were approved.**
- (4) As a matter arising from the minutes but not addressed elsewhere on the agenda, Wendehorst thanked the Jury of the ELI Young Lawyers Award, in particular, Council Members Tatjana Josipović and Teresa Rodríguez de las Heras Ballell for their work in grading papers and informed everyone that the winner of the 2021 edition will be announced during the Annual Conference in September 2021.

IV. Report from the Treasurer, Including Approval of 2020 Accounts

- (5) Philippe informed the meeting that the accounts for 2020 need to be approved by the Council now in order for ELI to file necessary documentation with the Belgian authorities on time. He explained that the accounts had been presented in February 2021 and that there were not many changes since then. Among the changes is the increase of reserves.
- (6) Philippe presented the final balance sheet and income statement which were audited by the auditor selected by the Council. He reported on the main income sources in 2020, the balances on the accounts as of end of the year and the improved financial situation, which enabled ELI to invest in the membership database software.
- (7) He thanked Fačková and Richterova for their work on finances, in particular with regard to dunning, as outstanding fees had decreased significantly.
- (8) **The 2020 accounts were approved.**
- (9) Wendehorst added that the Council will have to approve the 2022 budget, but that this will be done at the September meeting.

V. Council and Executive Committee Elections – Update

- (10) Wendehorst explained that ELI procedures had to be adjusted due to the pandemic, and the elections will take place online. She reminded everyone of the deadline of 25 July 2021 for filing nominations forms and endorsements. She invited current Council Members who can stand again to consider this, as ELI values their work greatly.

- (11) She informed the participants that the next steps after the deadline will be the publication of the brochure with all candidates by 6 August 2021, a webinar with candidates on 2 September 2021 and then elections during the ELI Membership meeting on 6 and 7 September 2021.

VI. Brief Update on Some Projects and Decisions Where Necessary

- (12) Wendehorst explained that Council Members received an overview of project updates and that a more comprehensive discussion on projects will take place at the next meeting in September. She also announced that the Principles for a Data Economy: Data Rights and Transactions (with the ALI), Freedom of Expression as a Common Constitutional Tradition in Europe, Business and Human Rights: Access to Justice and Effective Remedies (with input from FRA), Blockchain Technology and Smart Contracts and the first part of the Access to Digital Assets projects are nearing completion and Members will soon be approached to vote on final outputs.

a) Principles for a Data Economy – Presentation of the Current Draft

- (13) Lord Thomas thanked Wendehorst and Neil Cohen, Co-Reporters of the Principles for a Data Economy project, for their excellent work in finalising this project. He also thanked the project's Advisory Committee (AC) and Members Consultative Committee (MCC) for their help. He then wished Cohen a happy birthday.
- (14) Steven O Weise added that Wendehorst and Cohen did a marvellous job. He explained that the Principles were approved by the ALI Council and Membership and expressed hope that ELI bodies will also approve the results. He added that under ALI procedures there is some flexibility as to slight changes in the Principles should ELI suggest some.
- (15) Project Reporters went on to present the Principles and the changes implemented since the last Council meeting. They emphasised that they are pleased with the help of the AC and MCC. They also were proud that the Team, representing both sides of Atlantic achieved consensus on the matter.
- (16) Discussion followed during which Council Members, including Assessors, congratulated Reporters on their achievement. It was emphasised that this project is a very good example of an excellent cooperation between the two organisations.

b) ELI Innovation Paper – Update

- (17) Wendehorst reminded everyone about the initiative and explained that the Executive Committee received excellent suggestions and had a difficult decision to choose one. It finally decided to give the opportunity to prepare an Innovation Paper to Teresa Rodríguez de las Heras Ballell, both in the light of the excellence of the proposal and of the fact that this topic must be addressed within a short time window while the Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) is being discussed by EU institutions.
- (18) De las Heras Ballell went on to explain her idea, which concerns Principles for algorithmic decision-making in the EU. She confirmed that it is an opportune moment for such a paper, as the Proposal

for Artificial Intelligence Act is still under negotiations. She hoped certain innovative ideas could still be taken into consideration.

c) Initiatives to Involve the Youth

- (19) Acknowledging considerations from the past on the involvement of ELI in educational activities, Fauvarque-Cosson opined that ELI accomplished so much that the time might be ripe to get involved in such activities. She presented her idea that ELI could develop a short online course for students who benefit from the Erasmus programme, as it is important to support young people in upholding EU values.
- (20) The role of ELI would be to develop, with the help of professionals, a common corpus of materials for such a course. Materials would have to be innovative and financial support could come from EU Institutions, universities or the private sector. Such a project will also be a way to promote ELI and its work.
- (21) A discussion followed during which certain concerns were raised. The meeting was reminded that ELI decided not to engage in teaching as it did not want to harm relations with universities or organisations that already teach. Further arguments concerned the level of values to be promoted by the project, whether they should be EU or pan-European, or broader. Some concerns were also raised as to the idea of the test being a compulsory prerequisite for receiving an Erasmus scholarship. It was also pointed out that a lot of teaching materials are already available.
- (22) **The Council voted in favour of encouraging further internal reflections on the proposal and ELI's potential engagement with the youth.**

d) Expressions of Interest for Assessors

- (23) The Council appointed Athina Giannakoula and Ilaria Pretelli as Assessors of the ELI projects on Ecocide and on the Concept and Role of Courts in Family and Succession Matters, respectively.

VII. Strategy for the Conference on the Future of Europe

- (24) Wendehorst explained that the Conference for the Future of Europe started and ELI could therefore contribute to it by organising events that could feed into the Conference format. In particular, ELI will organise a series of three webinars, open to the public, featuring three ELI projects: Business and Human Rights: Access to Justice and Effective Remedies (representing the umbrella area of the rule of law in the 21st century), Climate Justice – New Challenges for Law and Judges (representing the umbrella area of sustainable life and society) and Artificial Intelligence (AI) and Public Administration – Developing Impact Assessments and Public Participation for Digital Democracy (representing the umbrella area of law and governance for the digital age).
- (25) The events will follow the general concept of the Conference on the Future of Europe in that they would be open to the public as well as broadcasted through social media, and focus on citizens' discussions. Based on that experience, ELI could potentially organise more events of this kind in the future.

VIII. Revision of the Internal Guidelines for the Executive Committee and Secretariat

- (26) Wendehorst explained the necessity for revision of the Guidelines.
- (27) Pichonnaz added that the exact final duties of the Scientific Director will be agreed upon by the new Executive Committee (to take office in September), but certain clarifications were necessary already. He emphasised that the aim is to ensure the cooperation between the Secretary General and the Scientific Director and to clarify the position of Senior Staff and their responsibilities.
- (28) **The Council approved the Revision.**

IX. Any Other Business

- (29) Powlakic wondered about the criteria for granting ELI Hubs and SIGs awards. Wendehorst explained that this is based on the reports that the Executive Committee receives from Hubs and SIGs Chairs and that the Council also receives in September. Among the criteria are the quality and number of events and initiatives, publications etc.
- (30) Wendehorst thanked everyone and, in particular, her colleagues in the Executive Committee as well as the Team at the Secretariat for their marvellous job.
- (31) She wished everyone a good and relaxing summer.

The Council meeting ended at 18:40 CET.