



ELI

EUROPEAN
LAW
INSTITUTE

Minutes of the Council Meeting
Vienna City Hall, Vienna, Austria
6 September 2013

Present

Members of the Council:

Diana Wallis (chair)	Miklós Király
Christian Alunaru	Oliver Mader
Carole Aubert de Vincelles	Maarten Meijer
Francesco Avolio	Damjan Možina
Christian von Bar	Miguel Nicolas
Elena Bargelli	Radim Polčák
Snezhana Botusharova	Ornella Porchia
Maja Brkan	Albert Ruda
Fabrizio Cafaggi	Hans Schulte-Nölke
Remo Caponi	Reiner Schulze
Marc Clément (proxy for Hans-Wolfgang Micklitz)	John Sorabji
Mark Clough	Matthias Storme (proxy for Friedrich Graf von Westphalen)
Olga Cvejić Jančić	John Thomas
Walter Doralt (proxy for Maria Kaiafa-Gbandi)	Verica Trstenjak
Sjef van Erp	Gerhard Wagner
Bénédicte Fauvarque-Cosson	Wilhelm Warth
Johan Gernandt	Christiane Wendehorst
Herwig Hofmann	Hartmut Wicke
Paola Iamiceli	Marek Wierzbowski
Marta Infantino	Boštjan Zalar
Carmen Jerez-Delgado	Fryderyk Zoll
Ana Keglević	

Ex-officio Council members:

Paul Gilligan (President, ENCJ)
Alasdair Lewis (President, ELRA)

Members of the Senate:

Irmgard Griss (Speaker of the Senate)
Francis Jacobs

Members of the Secretariat:

Gerard Ehrismann
Laurenz Liedermann
Mary Penman
Selma Povlakić
Alina Waloszczyk

Observers:

Emmanuelle Cretin-Magand
(DG Justice, European Commission)

Keeper of the minutes:

Alina Waloszczyk

Meeting begins at 15:45

I. Elections of the Executive Committee

- (1) Irmgard Griss opens the meeting and announces the elections for the Executive Committee (EC). She outlines the most important points of the elections procedure. Irmgard Griss presents the Search Committee's candidate for ELI President, Diana Wallis. No other candidates are put forward. Diana Wallis is elected by acclamation. Irmgard Griss presents the candidate for Vice-President, Christiane Wendehorst, after which the votes are cast. Christiane Wendehorst is elected by acclamation. Irmgard Griss moves onto presenting the candidate for the Institute's Treasurer, Johan Gernandt. No other candidates are put forward. Johan Gernandt is elected by acclamation.
- (2) Irmgard Griss moves to the next item on the agenda, elections of the four ordinary members of the EC. There are ten candidates, namely: Remo Caponi, Marc Clément, Sjef van Erp, Carmen Jerez-Delgado, Oliver Mader, John Sorabji, Matthias Storme, Verica Trstenjak, Marek Wierzbowski and Boštjan Zalar. Irmgard Griss briefly explains the procedure and clarifies that each Council member has one vote. Sjef van Erp explains that according to section 11 of the Elections Byelaw each Council member has one vote, however since there are 10 candidates for four posts the procedure needs further interpretation. After discussing it with John Sorabji, Sjef van Erp proposes casting votes for each of the four positions in a separate ballot. However, it is agreed that every Council member should cast four votes in a single ballot. After the ballots are collected, the members of the Secretariat count the votes under the supervision of the Returning Officer, Irmgard Griss.
- (3) Irmgard Griss congratulates Diana Wallis on being elected. Diana Wallis thanks all the Council members and expresses particular thanks to Sir Francis Jacobs for the enormous work he has done during the first two years of the Institute's existence. Irmgard Griss also expresses her thanks to Sir Francis Jacobs for his continuous support and for having faith, trust and confidence in the ELI's success from its beginning, when the Institute most needed it. Irmgard Griss informs the Council members that the ELI Senate wishes to co-opt Sir Francis Jacobs as a member. Sir Francis Jacobs expresses his thanks for all the work that has been done as well as for the privilege of having been able to serve as the President of the ELI and congratulates Diana Wallis on her election. Irmgard Griss reads out the message from the President of the Court of Justice of the European Union, Vassilios Skouris addressed to Sir Francis Jacobs. It is followed by a video message from the President of the European Court of Human Rights, Dean Spielmann. Sir John Thomas also expresses his gratitude for the tremendous work done by Sir Francis Jacobs. On behalf of the Senate, Irmgard Griss thanks the members of the EC, in particular former Vice-President Bénédicte Fauvarque-Cosson, who stood by the Institute from the beginning.

Christian von Bar, Hans Schulte-Nölke leave the meeting

16:20 Coffee break

- (4) Irmgard Griss announces the results of the first ballot: John Sorabji 30 votes, Marc Clément 28 votes, Remo Caponi 23 votes. Those candidates are elected. Two of the candidates, Sjef van Erp and Verica Trstenjak receive the same number of votes (22 votes). A second ballot is conducted. Council members cast their votes for one of the two remaining candidates. The votes are counted by members of the Secretariat. Irmgard Griss announces the results, Verica Trstenjak

receives 20 votes and Sjef van Erp 22 votes. Sjef van Erp is elected to the EC. Irmgard Griss reads out the names of the new members of the EC and congratulates them. She thanks the members of the Secretariat for their hard work in preparing the conference. Diana Wallis thanks Irmgard Griss for all her efforts.

Irmgard Griss, Herwig Hofman, Francis Jacobs leave the meeting

II. Opening address by the new President of the ELI

- (5) Diana Wallis opens the first meeting of the newly elected Council. She explains that holding the position of ELI President is a privilege but at the same time a challenge, especially to follow in the footsteps of Sir Francis Jacobs. The Institute should now be taken to the next stage. Diana Wallis expresses the hope that she will be able to bring the expertise she acquired while working as a Member of the European Parliament and elsewhere to the ELI. She sums up the three days of the conference in Vienna and mentions the ongoing ELI projects, which she considers of high importance in terms of European lawmaking. She underlines their significance for the ELI's future. The Institute should now strive for a reputation similar to that of the American Law Institute. Diana Wallis again thanks those present for the trust they have placed in her.

III. Discussion of current issues

- (6) Diana Wallis moves to the next item on the agenda, discussion of current issues. She opens the floor for discussion. Miguel Nicolas asks why the project on income tax failed and whether it could be continued in a new form. Diana Wallis replies that this would be a decision of the new Projects Committee. Christiane Wendehorst explains that unfortunately the person who could give more details about this project, Hans Schulte-Nölke who is currently chairing the Projects Committee, was unable to attend the Council meeting. She further explains that her involvement in the project was limited and therefore the information she can share is probably not comprehensive. The main reasons for cancelling the project were related to its substance. The project design as it has been decided was for some reason not viable enough. There were also issues with funding which could not be resolved. Christiane Wendehorst stresses that the cancellation of this project does not mean that the Institute will not conduct projects in the field of tax law in the future. Fabrizio Cafaggi suggests that there should be a strategic plan in place for the years to come. He explains that the Institute has been created as the European Law Institute, however given the topics discussed during two days conference in Vienna, he is under the impression that the Institute is flattening its perspective to EU law and not European law as it was originally anticipated. There are other countries that should be addressed and this is not only a matter of membership. The Council of Europe has not been in the debate as much as it should have been. Fabrizio Cafaggi pleads to go back to the initial spirit of the ELI, as the EU is important, but it should not be the only focus of ELI's work. Fabrizio Cafaggi also stresses that the ELI should, as a matter of urgency, become involved in the issue of legal education. He proposes that the ELI should draft a White Paper on a European legal education, where the Institute defines guidelines on what the future of legal education in Europe should be. The third point he raises is on judicial cooperation. Despite of having projects that might deal with this issue to a certain extent, the Institute should have a more specific focus on the judicial European lawmaking. Diana Wallis thanks Fabrizio Cafaggi for his comments and explains that the Executive

Committee will have a fairly regular calendar of meetings and will develop a strategic plan. Referring to the comment about legal education, she recognises that there might be a need for such an initiative of the ELI. The same holds true for judicial cooperation. Diana Wallis confirms that she does want the ELI to be European and not an EU focused organisation. These matters will be looked into. Fryderyk Zoll raises his concern that the members of the Executive Committee come only from Western Europe. This was of course an inherent risk of having elections, but nonetheless the EC should be mindful of this fact. Diana Wallis acknowledges that it is an issue of concern, however she explains that the EC will make sure that it is as inclusive as possible and it will try to address this matter in the best possible way.

IV. Appointment of members of the standing Council Committees

- (7) The next point on the agenda is to deal with the Council standing committees, namely: Council Composition (CCC), Fundraising (FC), International Relations (IRC), Membership (MC) and Projects Committees (PC). Diana Wallis informs those present that there is a possibility of expressing interest in joining any of these committees at the meeting, but also that over the next week expressions of interest can be sent to the Secretariat in writing. Matthias Storme suggests discussing first whether those committees are the ones that the Council wishes to have for its next term. He mentions that the CCC fulfilled its purpose and it probably no longer makes sense to maintain this committee. He proposes that instead there could be another committee established which could deal with problems related to the Statute and its interpretation, organisational issues, elections, regulations, etc. Diana Wallis explains that it might be better to postpone this discussion to the next Council meeting. Matthias Storme points out that if the Council members should express their interest for the different committees, they should first know which committees there are. Diana Wallis inquires about a concrete proposal on what committee should replace the CCC. Sjef van Erp briefly explains how the committee was created and what its main tasks were. He suggests that a new committee could, as already suggested by Matthias Storme, deal with interpretation of the Statute, advising on new ex-officio Council members, election protocol, etc. Diana Wallis considers it a good idea and asks for a suggestion how to call such a committee. Two names are proposed 'Legal Affairs Committee' or 'Rules Committee'. Walter Doralt questions the need for a permanent committee dealing with these problems especially given that the elections are now over; an ad hoc committee would be sufficient. Reiner Schulze suggests continuing the work of the FC, IRC, MC and PC and the EC could prepare a proposal for the next meeting of the Council with respect to the CCC as well as any other committees. Diana Wallis agrees with that suggestion. Matthias Storme raises his concern that if the Council proceeds as proposed and a discussion on creating new committees is postponed to the next meeting, it might be a problem with finding candidates to join these committees at a later stage, if most of the Council members already declared their interest for other committees. Walter Doralt suggests that one of the committees should be responsible for coordinating the hubs, possibly even somebody at the EC. Diana Wallis admits that this is indeed a very pertinent issue as the ELI wants to increase the activities of the hubs and create new hubs, while making sure that the 'ELI brand' is protected. Diana Wallis invites those present to express their interest in joining the committees. Christiane Wendehorst reads out the names of current members for each of the committees. Maarten Meijer and Johan Gernandt confirm their willingness to continue serving on the FC. Hartmut Wicke expresses interest in joining this committee. Mark Clough, Sjef van Erp, Fryderyk Zoll, Bénédicte Fauvarque-Cosson and Fabrizio

Cafaggi, Reiner Schulze, Matthias Storme, Francesco Avolio and Oliver Mader express their interest in joining the IRC. Walter Doralt informs that he will be glad to continue his work on the MC. Ana Keglević and Miklós Király also express their interest in joining the MC. Carole Aubert de Vincelles, Francesco Avolio, Elena Bargelli, Snezhana Botusharova, Remo Caponi, Paola Iamiceli, Ornella Porchia, Gerhard Wagner indicate their interest in joining the PC. Christiane Wendehorst informs that Hans Schulte-Nölke and Radim Polčák also would like to continue serving on the PC. Miguel Nicolas asks what the minimum and maximum number of persons on each of the committees is. Diana Wallis reads out section 12 paragraph 3 of the Elections Byelaw. Reiner Schulze suggests that the Council members should serve only on one committee and concentrate their efforts on that. Matthias Storme disagrees on this point and explains that working on various committees does not in fact exclude doing a good job, which also means that there is no guarantee that a person who belongs only to one committee will do their job properly. Matthias Storme suggests splitting the PC into two different committees, e.g. committees working on public and private law, but it could also be another distinction. Diana Wallis admits that these suggestions require a careful consideration, but suggests leaving it to after the expressions of interests are submitted. The names of those Council members who expressed interest in joining the PC are read out. Marek Wierzbowski informs that he would also like to continue his work on the committee.

V. Any other business

- (8) Diana Wallis announces that it is very likely that the next Council meeting would be held on 28 February in Vienna. Fryderyk Zoll raises a question about the location of the next plenary meeting. Christiane Wendehorst informs that there is a possibility that it might be organised in Croatia. Diana Wallis and Christiane Wendehorst briefly introduce the staff of the Secretariat and thank them individually for their work. Diana Wallis closes the meeting.

Meeting ends at 17:40