



ELI  
EUROPEAN  
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# ELI Updates

## September 2013



### Message from President Diana Wallis

Dear Members and Friends of the ELI,

It is a pleasure to write the opening words to this newsletter following our successful days in Vienna at the 2013 Project Conference and the General Assembly. These days were, I think, a success not only in terms of the discussions and output on our projects but perhaps equally important was the wonderful atmosphere of collaboration and enthusiasm which permeated our gathering. Of course this was surely helped by the stunning venues for our various meetings and the hospitality of our hosts. The pictures in this mailing tell their own story of a happy event.

I am immensely proud to have been elected your President; it is an honour to follow Sir Francis and a challenge to take the ELI forward. I sense some expectation which I hope together we can meet. As the new executive and standing committees begin their work it is important that we are able to be efficient and focused. We have to select projects that are relevant and deliverable - that is what will bring us continued attention and success; it should be a virtuous circle. I know too well from my time as a politician and a legislator that there is a desperate need for independent insight and recommendation. The ELI, by representing the diversity of Europe's wider legal community, has the possibility to be a welcome and untapped resource in constructing Europe's future legal architecture; but, as I said in Vienna, we have to be 'intellectually brave'.

I am greatly looking forward to returning to Vienna for the ELI/UNIDROIT workshop on civil procedure in October. This collaborative work will be another important venture. I have also been invited on your behalf to participate actively in the *Assises de la Justice* which the European Commission is organising in November. If you have any input you would like me to reflect please do not hesitate to initiate a discussion on the MyELI platform, or send an email to [diana.wallis@europeanlawinstitute.eu](mailto:diana.wallis@europeanlawinstitute.eu).

If like me you enjoyed the days in Vienna, or were not there and likewise enjoy this newsletter please do what you can to spread the word about the ELI among colleagues and the institutions you belong to. Our diverse and deep membership is and will continue to be our source of legitimacy and strength, confirming us as a leading player in the ongoing construction of European and transnational law; we can all do our individual best to further increase and widen our reach.

With best wishes

Diana Wallis

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## 2013 Projects Conference and General Assembly



Rector Heinz W. Engl

The annual Projects Conference and General Assembly took place from 4 to 6 September 2013 bringing together many of the Institute's members and participants, amongst them several representatives of the European Institutions, interested in learning about the projects on track and other recent developments.

The opening of the General Assembly took place in the grand surroundings of the University of Vienna, with its Rector Heinz W. Engl officially hosting the evening. Many attendees of the opening ceremony came straight to the event from the *Haus der Europäischen Union*, where the launch of the ELI Austrian Hub had just taken place. For a more detailed report about the Austrian Hub launch, please see [page nine](#).



Sir Francis Jacobs

After a reception in the spacious courtyard and entrance hall of the historic University, attendees re-located to the *Festsaal* to listen to the opening speeches. Rector Engl and Sir Francis Jacobs welcomed their guests to Vienna and to the second ever ELI Projects Conference and General Assembly. Lance Liebman, the Director of the [American Law Institute](#) on which the ELI is partly modelled, then delivered the opening keynote. He offered advice from the experience harnessed by this long-standing institution while recognising the ELI's unique position as a unifier of diverse legal traditions and cultures in Europe. He also congratulated the ELI on its achievements so far, and expressed his very best wishes for a prosperous future. A statement sent by Professor Liebman, in which he reflects on his experience at the 2013 Projects Conference and the progress of the Institute so far, can be found on [page five](#).



Prof. Lance Liebman

On 5 September 2013, the participants of the Projects Conference heard from the Vice-President of the European Commission, EU Commissioner for Justice, Fundamental Rights and Citizenship Viviane Reding. A long standing supporter of the Institute, Commissioner Reding reflected in her [video message](#) on the progress achieved in the two years since she spoke at the opening of the Institute's Secretariat in Vienna.

The panel discussions that followed focused on three of the ELI's current projects. Project leaders gave presentations on the work in progress, and then oversaw intense discussions between the panellists and audience. The representation of the European Commission, European Parliament and the European Ombudsman's Office on the panels further enriched the debate. The comments and points made at the Conference served as a source of inspiration for the members of the different ELI working groups and will be carefully considered while preparing the final documents.



Sir John Thomas, Chair of the Working Group for the [ELI Statement on the Proposal for a Common European Sales Law \(CESL\)](#) and the next Lord Chief Justice of England and Wales, presented the ELI's Statement, which has provided the European Institutions with a set of concrete proposals for amendments, arranging them in a comprehensive format as a full redraft of the CESL in order to demonstrate how the proposal might work in context. The ELI Statement is envisioned not as an alternative, competing proposal but rather a draft presenting a range of options. The second CESL-related panel, chaired by member of the ELI CESL Advisory

Committee Friedrich Graf von Westphalen, elaborated on the Working Group's new focus on e-commerce and digital content, highlighting some key findings concerning the CESL's application to online transactions.



Martin Schauer, professor of law at the University of Vienna and the project leader of the [ELI Statement on the European Foundation Statute](#) led the discussion on the Institute's engagement with the Commission's proposal for a Council Regulation on the Statute for a European Foundation (FE). The ELI Working Group has been assessing the proposal, making suggestions for its further development in form of draft amendments aimed at

increasing legal certainty and the instrument's practical utility.

The fourth of the day's panels, led by professor Jens-Peter Schneider, focused on the project that the Institute is conducting in cooperation with the Research Network on the EU Administrative Law (ReNEUAL) titled "[Towards Restatement and Best Practices Guidelines on EU Administrative Procedural Law.](#)" The aim of the project is to produce draft model rules in the field of the European administrative procedural law that would simplify the current patchwork of legislation as well as propose best practices and solutions for some issues that remain unresolved.



Following the panel discussions, the Members Consultative Committees (MCC) convened. Katalin Ligeti, one of the project reporters for the [Instrument on Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law](#), introduced the project to the MCC members. The MCC meeting for the EU Administrative Law project, chaired by Marc Clément, ELI Council and Executive Committee member, gave an opportunity for the members to meet in person and divide the work which will be conducted in the months to come.

The evening of the Projects Conference presented the guests with a chance to wind down and enjoy the gala dinner, generously sponsored by one of the leading Austrian law firms, [Kunz Schima Wallentin Rechtsanwälte](#), in the spectacular setting of the *Kunsthistorisches Museum*.

In addition to the delicious dinner, the guests were invited to visit the unique art collection of the famous *Kunstkammer*, which remained open beyond the official closing hours, allowing the ELI guests an exclusive look at some of the gallery's most treasured works of art.

At the General Assembly held on 6 September 2013, ELI members had the opportunity to hear about most recent developments at the Institute and the work of the various committees. Secretary-General of UNIDROIT José Angelo Estrella Faria delivered the keynote address on [“Globalisation, legal identity and regional integration: complementarity or conflict?”](#)

It was also at the General Assembly that the first ELI Council elections took place, resulting in 60 Fellows being elected to serve on the Council which will remain in its current formation until 2015.



Sir Francis Jacobs chairs the General Assembly



José Angelo Estrella Faria delivers a keynote speech



The three-day event offered a platform where attendees could reflect on the ELI's formative years and take stock of the Institute's many accomplishments in the short period of time since its inception in 2011. It was also an opportunity to thank the outgoing president Sir Francis Jacobs for his tremendous commitment in guiding the Institute and seeing it “come of age.” Sir Francis Jacobs has now handed over the baton to Mrs Diana Wallis, a former Member of the European Parliament and an ELI Council member, who has been elected to head the Institute as its new President.

The Secretariat staff, who organised the Conference and General Assembly, were delighted to see so many Members and friends of the ELI come to Vienna to participate in the event, which is so central to the ELI's continued activity and success.

To view more photos, please visit the [online gallery](#).



## The Progress of the ELI: Reflections from Professor Lance Liebman

*"I had the great honor of speaking at ELI's September meeting. I have spoken in lots of places but never in a hall as grand as the Festsaal at the University of Vienna. When I saw the pictures of me in that elegant space I wished my parents (who lived in a small town in Kentucky) were still alive to see it.*

*My serious comment is that the ELI meeting was extraordinary. I had been at the ELI's opening event in Paris in 2011 but did not expect the organization to have advanced so far in only two years. This year's was a serious substantive meeting attended by judges, professors, and practicing lawyers from many countries. The discussion of three different law reform projects on September 5 was similar to what happens at American Law Institute meetings but the ALI has spent 90 years getting to its current level of discourse. I can see many ways in which the legal systems of European countries as well as evolving European Law itself will benefit as ELI goes forward with its work.*

*I can also see almost unlimited opportunities for cooperation between ELI and ALI. We recently completed work on Aggregate Litigation (class actions), Cross-Border Insolvency Law, and International Enforcement of Intellectual Property Claims. These are subjects that would be on any list of possible ELI work. We are hard at work on the American Law of International Arbitration and on the law of Liability Insurance. We are near the end of a substantial project on the Law of Nonprofit Organizations, a subject being considered for ELI work though with a different name. Our brand new projects include Consumer Law, Privacy Law, Sexual Assault Crimes, and Foreign Relations Law of U.S. (with lots of connection to issues of international law), and also one that will probably never be studied by ELI, (American) Indian Law.*

*Professor Wendehorst and I have discussed how to make a modest start in cross-Atlantic communication. In the electronic age, it would be easy to find one or several European experts who would be happy to read drafts on each ALI project and sometimes to send comments from a European perspective. We can do the same with American experts considering the results of ELI work. I am sure there will come a time when we attempt a joint project, but for the moment simply paying attention to each other's work will be positive.*

*Attending ELI's meeting allowed me to extend my summer for a week, a very good thing. Much more important, it gave me deep understanding of the progress already made by the new ELI and optimism about the influence it will have in the years ahead."*



ALI Director Lance Liebman delivers his keynote speech at the opening ceremony

## Newly elected Council meets for the First Time



Fellows vote in the first ELI Council elections

An important part of this year's General Assembly was the election of 60 Council members. The election was organised by the ELI Secretariat and overseen by Returning Officer and Senate Speaker Irmgard Griss. Immediately after the announcement of the election results, the first meeting of the new Council commenced. The first task was the election of the Executive Committee; Diana Wallis was elected as President, Christiane Wendehorst as Vice-President and Johan Gernandt as Treasurer.



Irmgard Griss announces the election results

The four ordinary members of the Executive Committee are: Remo Caponi, Marc Clément, Sjef van Erp and John Sorabji. In her opening address to the members of the Council, Diana Wallis thanked them for the trust placed in her, and expressed the hope that the expertise she acquired while working as a Member of the European Parliament and elsewhere will be beneficial to the ELI. Diana Wallis also lead a tribute to Sir Francis Jacobs, who attended the first part of the meeting as the outgoing President. She was joined by Irmgard Griss and Sir John Thomas, who personally expressed their gratitude and congratulations for the support and guidance that Sir Francis Jacobs afforded the ELI in its inaugural years. Sir Francis Jacobs was also surprised by a congratulatory message from Vassilios Skouris, President of the Court of Justice of the European Union, and a video message from Dean Spielmann, President of the European Court of Human Rights, who were unanimous in their praise for his work for the ELI and beyond. The next section of the meeting was devoted to discussing the Standing Council Committees and their members. Much interest was demonstrated, particularly in serving on the Projects Committee. The next Council meeting will take place in Vienna on 28 February 2014.



President Diana Wallis chairs the Council meeting



The new Council meets in the Stadtsenats Sitzungssaal of Vienna City Hall on 6 September 2013

### Council Members:

Christian Alunaru  
 Carole Aubert de Vincelles  
 Yannis Avgerinos  
 Francesco Avolio  
 Christian von Bar  
 Elena Bargelli  
 Hugh Beale  
 George A. Bermann  
 Snezhana Botusharova  
 Maja Brkan  
 Fabrizio Cafaggi  
 Remo Caponi  
 Marc Clément  
 Mark Clough  
 Olga Cvejić Jančić  
 Georges-Albert Dal  
 Walter Doralt  
 Sjef van Erp  
 Bénédicte Fauvarque-Cosson  
 Anne Birgitte Gammeljord  
 Johan Gernandt  
 Herwig Hofmann  
 Jiří Hrádek  
 Paola Iamiceli  
 Rafael Illescas  
 Marta Infantino  
 Carmen Jerez-Delgado  
 Maria Kaiafa-Gbandi  
 Ana Kegević  
 Miklós Király  
 Oliver Mader  
 Imelda Maher  
 Maarten Meijer  
 Hans-Wolfgang Micklitz  
 Damjan Možina  
 Martin Nettesheim  
 Radim Neubauer  
 Miguel Nicolas  
 Denis Philippe  
 Radim Polčák  
 Ornella Porchia  
 Marcella Prunbauer-Glaser  
 Albert Ruda  
 Hans Schulte-Nölke  
 Reiner Schulze  
 John Sorabji  
 Matthias Storme  
 John Thomas  
 Christiaan Timmermans  
 Verica Trstenjak  
 John Vervaele  
 Gerhard Wagner  
 Diana Wallis  
 Wilhelm Warth  
 Christiane Wendehorst  
 Friedrich Graf von Westphalen  
 Hartmut Wicke  
 Marek Wierzbowski  
 Boštjan Zalar  
 Fryderyk Zoll

## The ELI and its GA from the Perspective of an Institutional Observer



Wardyński & Partners joined the ELI as an Institutional Observer in November 2012, becoming the first law firm to do so. Wardyński & Partners is one of the largest independent Polish law firms with offices in Warsaw, Poznan, Wroclaw, Krakow and Brussels. The firm has over 100 lawyers, serving clients in Polish, English, French, German, Spanish, Russian, Czech and Korean. It also participates in non-profit initiatives and pro bono activities within the Strategic Litigation Programme of the Helsinki Foundation for Human Rights.

### What prompted you to join the ELI?

“The main reason Wardyński & Partners decided to become an Institutional Observer of the ELI was the firm’s recognition of the importance of integration between the member states of the EU at the level of law and practice, and the great contribution the ELI can make toward that end.

In theory, EU legislation is intended to create uniform standards that help implement the Four Freedoms enshrined in the EU treaties and thus achieve greater efficiency in the internal market and greater prosperity among citizens of the member states. This requires uniform application of EU law, but in practice this can be thwarted by an adherence to traditional local legal cultures. The ELI can help develop a common legal culture across the EU, and the input from law firms like ours can contribute to this effort. Development of a common legal culture will raise the awareness of EU law and the advantages it can provide to citizens of all member states. An awareness of this should spread among national institutions and ordinary, well-informed individuals in the member states.”

### What do you expect from your role as Institutional Observer to the ELI, and how did attending the 2013 Projects Conference and General Assembly help consolidate this?

“Our firm has always been active in initiatives promoting the rule of law, and the ELI offers us an opportunity to take this interest to the next level. The ELI is also attractive to us as a forum for meeting like-minded practitioners from other European countries. The insights they can share with us will help us in our efforts to apply best practice in our day-to-day work for our clients.

We were pleased to see these ideals put into action at the ELI’s 2013 Projects Conference and General Assembly in Vienna in September, where the firm was represented by Dariusz Wasylkowski and Aleksandra Stępniewska. At the conference, Wardyński & Partners declared its intention to participate actively in the work of the institute, particularly through the Members Consultative Committees, starting with a focus on the initiative to develop guidelines to help resolve jurisdictional disputes in criminal matters.

The ELI is a young organisation, and no doubt it will take time to cultivate active participation in the work of the institute by legal scholars and practitioners from all European countries. At the Vienna conference, we were pleased to note that two legal scholars from Poland, Professors Marek Wierzbowski and Fryderyk Zoll, were elected to the ELI Council.”



Aleksandra Stępniewska of Wardyński and Partners at the 2013 General Assembly

## The GA from the Perspective of Institutional Observer Kunz Schima Wallentin Rechtsanwälte



RECHTSANWÄLTE

“The first ELI-Conference in Vienna was not only well organized, it also covered a good mix of highly topical issues of the European Union such as the Common European Sales Law (CESL) Proposal and the Proposal for a Regulation on the Statute for a European Foundation (FE). The speakers impressed with their deep expert knowledge in their field of law as well as their consideration of the political and economic reality in their speeches and the subsequent discussions. The involvement of the audience in the discussions attested the very open-minded approach of the whole conference. All in all, a very enriching forum which provided first-hand information about the current developments of the law of the European Union. KSW participants were also very impressed with the great attention for the launch of the Austrian Hub of ELI that was not only reflected in the high profile discussion panel

but also by the fact that the key note was given by Mr Franz Fischler, former EU Commissioner. The perfect organization and the gathering of so many high level experts is a great achievement of the Austrian protagonists of ELI, foremost ELI Executive Committee member Professor Christiane Wendehorst whose commitment to the ELI is admirable and inspiring. KSW also embraces the fact that the Secretariat of the ELI has been established in Vienna and in cooperation with the University of Vienna and is looking forward to hosting more Gala Dinners in cooperation with ELI.”



## Reflections on the Projects Conference and GA from Chief Justice Professor Zaganjori, Supreme Court of Albania



“It was a great pleasure for me, in my capacity as the Chief Justice of the Supreme Court of Albania, to have participated in the ELI’s annual Projects Conference and the General Assembly meeting in September 2013. The Supreme Court of Albania joined the prestigious Institute as an Institutional Observer in July 2013. Such membership represents an important development that will contribute to strengthening the institutional knowledge of European Law in Albania; enhancing the exchange of views and networking among prominent lawyers, judges and scholars; as well as fostering proper understanding and implementation of the EU Acquis in Albania.

I was delighted to meet and exchange views with scholars and renowned experts of EU law which this event had gathered from all over Europe and beyond. ELI itself and these activities represent great assets for the European common legal heritage and its future as a Union of countries based on the rule of law and respect for fundamental human rights and freedoms. Certainly, the Supreme Court of Albania will be looking forward to actively participating and contributing to the work of ELI.”

## Austrian Hub launched in Vienna ahead of September events

In the afternoon of 4 September, the ELI launched its “hub” in Austria, a local chapter envisioned as a communication point that would enable members in the country to keep closer relations with the Institute. Hubs have already been established in the UK and France, and the launch of a hub in Germany took place on 13 September 2013.

The Austrian Hub launch, which featured many prominent panellists debating the current status of European legal integration, was moderated by Irmgard Griss, Speaker of the ELI Senate and former President of the Austrian Supreme Court. The keynote address was delivered by Franz Fischler, President of the [European Forum Alpbach](#) and a former EU Commissioner.



Franz Fischler speaks at the launch of the Austrian Hub



The Austrian Hub launch at the *Haus der Europäischen Union* in Vienna

## German Hub “Kick-off” Event in Marburg

A kick-off event for a German Hub has taken place in Marburg, on the occasion of the *Tagung für Rechtsvergleichung*, a conference on comparative law organised by the German national committee of comparative law (*Gesellschaft für Rechtsvergleichung*).

New President Diana Wallis sent a message to the attendees of the Marburg meeting, wishing them her very best for the development of the German Hub, and stating her hopes for its future activities:

*“The meeting of informal hubs at national level should help inspire debate about on-going ELI projects and provide a forum for discussion amongst existing fellows and other colleagues at a local level about possible future work and projects. (...) Again with all good wishes for your initiative and wishing you a pleasant event and good discussions, Diana Wallis.”*

*„Die eher informell konzipierten Hubs sollen mit ihren Veranstaltungen die Diskussion zu laufenden Projekten anregen und den Austausch zwischen ELI-Mitgliedern erleichtern sowie eine Schnittstelle zum nationalen juristischen Diskurs herstellen. (...) Ich wünsche auf diesem Wege allen Teilnehmern dieser Initiative ein erfolgreiches Treffen und eine nützliche, hoffentlich bereichernde Diskussion, Diana Wallis.“*

Excerpt from Diana Wallis’ message

The event was attended by experts on comparative, international and European law from a variety of disciplines. The meeting was called by Professor Uwe Blaurock, a Fellow of the ELI who presented the Institute on behalf of the organising committee. He was proud to announce that the *Gesellschaft für Rechtsvergleichung* will join the ELI as an Institutional Observer.

Senate member Reinhard Zimmermann and recently elected Vice-President Christiane Wendehorst were also in attendance to answer questions from the participants, many of whom have decided to apply for membership. The kick-off meeting will be followed by another hub-event which is to take place in the autumn in Berlin.

## ELI/UNIDROIT Workshop on Civil Procedure 18-19 October 2013



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In cooperation with the American Law  
Institute (ALI)

The public workshop “From Transnational Principles to European Rules of Civil Procedure” will be held in Vienna on Friday 18 October from 10:30 to 15:15, chaired by Loïc Cadiet from University Paris 1. President Diana Wallis and UNIDROIT Secretary-General José Angelo Estrella Faria will both attend the conference, and give opening addresses on the morning of the 18 October. The day’s workshop will be structured around four speeches and subsequent discussions. The speakers and discussion topics are:

“The 2004 ALI/UNIDROIT Principles” **Geoffrey C. Hazard** and **Antonio Gidi** (*American Law Institute*)

“The European Acquis of Civil Procedure: Constitutional Aspects” **Alexandra (Sacha) Prechal** (*Court of Justice of the European Union*)

“The European Acquis of Civil Procedure: The Existing Body of Rules” **Burkhard Hess** (*Max Planck Institute Luxembourg*)

“Civil Procedure: The Agenda of the European Commission” **Michael Shotter** (*European Commission*)

Beginning at 15:30 on Friday 18 October, and continuing on 19 October from 09:00 to 14:00 there will be a closed expert seminar. Friday’s session will be chaired by **Thomas Pfeiffer** from Heidelberg University, and will focus on the following topics: *Structure of the Proceedings, Multiple Claims and Parties* and *Access to Information and Evidence*. **Marcel Storme** will chair the first session on Saturday morning and oversee discussions on: *Due Notice of Proceedings, Obligation of the Parties* and *Lawyers and Provisional and Protective Measures*. The second session on Saturday will be chaired by **Verica Trstenjak** and will cover the following topics: *Costs, Lis Pendens and Res Judicata* and *Transparency of Assets and Enforcement*. This part of the event may be attended by invitation only, but any ELI Fellows who are interested in this field should [register](#) their interest with the Secretariat, who will pass this information on to the organisers.



John Sorabji

John Sorabji, member of the ELI’s Executive Committee and one of the organisers of this Workshop, recognises the vital role that it will play in developing the planned ELI/UNIDROIT project on Principles of Transnational Civil Procedure from a European perspective:

*“With leading academics and practitioners attending, both events should provoke an extremely high quality debate. Just as importantly, it will help frame the ultimate nature of the project, identify its aims, methodology and working party. Given this it is all-the-more important that as many ELI members who specialise in civil procedural law attend the conference and notify the Secretariat if they want to attend the workshop so that they can help secure its success and, ultimately, of the project itself.”*

## Attending the Workshop

If you are interested in attending the public conference and/or expert seminar or would like any further information about the event please inform the ELI Secretariat by email.

Register with the Secretariat

If you plan to travel to Vienna for the workshop and need overnight accommodation, the ELI Secretariat has been allocated a number of rooms at Hotel Regina. These rooms are available at a reduced rate for ELI guests. Please mention the ELI when you make your reservation, and be aware that you must provide credit card details to guarantee your booking.

Rate: Standard double room 110 EUR (single occupancy)



Hotel Regina Website

Email Hotel Regina

## The ELI welcomes more Institutional Observers

The number of Institutional Observers to the ELI continues to grow, with the recent addition of the Vienna based law firm Willheim Müller Rechtsanwälte, of the Danish Bar and Law Society (Advokat Samfundet) and the German Association of Judges (Deutscher Richterbund).

For more information about individual or institutional membership of the ELI, please visit the ELI [website](#).

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