



ELI

EUROPEAN
LAW
INSTITUTE

2017 Annual Conference and General Assembly

6-8 September 2017



Programme Overview

Wednesday, 6 September

Venue: Vienna City Hall, Lichtenfelsgasse 2 Entrance, 1010 Vienna

09:30 - 10:00 **Registration** (Council members only) | **ELI Council Meeting**
10:00 - 11:00 **Registration** (all others) | (in its outgoing formation - Council members only)
Entrance to Festival Hall | *Nordbuffet*

11:05 - 12:35 **ELI General Assembly (ELI members only)**
European Young Lawyers' Award – Winner's Presentation
Festival Hall

12:35 - 14:00 Buffet Lunch

ELI ANNUAL CONFERENCE (ALL CONFERENCE PARTICIPANTS)

Venue: Vienna City Hall, Lichtenfelsgasse 2 Entrance, 1010 Vienna

14:00 - 14:30 **Welcome Addresses and Introduction**
Diana Wallis, ELI President
Heinz W Engl, Rector of the University of Vienna
Paul Oberhammer, Dean of the Law Faculty of the University of Vienna

14:30 - 16:00 **Plenary Session: Rescue of Business in Insolvency Law**
Festival Hall

16:00 - 16:30 Coffee Break

16:30 - 18:00 **Detention of Asylum Seekers and Irregular Migrants and the Rule of Law** | **Common Constitutional Principles in Europe**
Nordbuffet | *Festival Hall*

19:00 - 22:00 **Evening Reception**
Venue: Palais Trautson, Museumstraße 7, 1010 Vienna

Thursday, 7 September

Venue: Vienna City Hall, Lichtenfelsgasse 2 Entrance, 1010 Vienna

08:00 - 09:00 **Registration**
Entrance to Festival Hall

09:00 - 10:15 **From Transnational Principles to European Rules of Civil Procedure: Evidence, Provisional Measures and Service of Documents** | **Building a Data Economy**
Nordbuffet | *Festival Hall*

10:15 - 10:45 Coffee Break

10:45 - 12:00 **The Courts and Alternative Dispute Resolution** | **Rules and Standards for Online Intermediary Platforms**
Festival Hall | *Nordbuffet*

12:05 - 14:00 Keynote Lecture and Buffet Lunch
Festival Hall

14:00 - 15:15 **Business and Human Rights** | **Internet of Things**
Nordbuffet | *Festival Hall*

15:15 - 15:45 Coffee Break

Programme Overview

15:45 - 17:00	Third Party Funding of Litigation <i>Nordbuffet</i>	Fiduciary Access to Digital Assets <i>Festival Hall</i>
17:00 - 17:30	Announcement of the Council Election Results <i>Festival Hall</i>	
17:30 - 19:00	ELI Council Meeting (in its new formation - Council members only - Election of Executive Committee) <i>Nordbuffet</i>	
19:30 - 22:00	Conference Gala Dinner <i>Venue: Palais Niederösterreich, Herrengasse 13, 1010 Vienna</i>	

Friday, 8 September

Venue: Faculty of Law, University of Vienna, Schottenbastei 10-16, 1010 Vienna

09:30 - 10:45	The Protection of Adults in International Situations <i>Top Floor (DG)</i>	Digital Law SIG (08:30-10:45) - U21
10:45 - 11:15	Coffee Break	
11:15 - 12:30	Empowering European Families <i>Top Floor (DG)</i>	Dispute Resolution SIG (11:00-12:30) - U12 Business and Financial Law SIG (11:15-12:30) - U14 Contract, Tort and Property Law SIG (11:15-12:30) - U21
12:30 - 14:00	Buffet Lunch	
14:00 - 15:15	R&D Tax Incentives <i>Top Floor (DG)</i>	Administrative Law SIG (14:00-15:15) - U12
15:20 - 16:35	Conflict of Laws and Digitalisation <i>Top Floor (DG)</i>	Family Law and Succession Law SIG (15:15-16:35) - U14 Civil Law SIG (15:15-16:35) - U21
16:40 - 16:50	Closing Remarks: Newly Elected President <i>Top Floor (DG)</i>	
19:00 - 22:00	Social Event (Heuriger) <i>Venue: Mayer am Pfarrplatz, Pfarrplatz 2, 1190 Vienna</i>	



About the European Law Institute



Diana Wallis, President

'The ELI Annual Conference this year is another step forward for the Institute with a tremendously varied agenda and many parallel sessions; delegates will have some difficult choices to make – I trust in a good way. More than ever the agenda reflects our collective view towards the future and the particular challenges which technological developments and political uncertainties bring to Europe; it is for the legal community which the ELI comprises to ensure that this remains a Europe where fairness and above all justice prevail.'



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Christiane Wendehorst, Vice-President

'The European Law Institute has given a voice to the European legal community for six years now – a voice to a community of judges, legal professionals, academics and jurists with other vocational backgrounds from all over Europe and beyond, who are united by their common vision of a vigorous Europe, democracy, the rule of law and the improvement and further development of the law.'



Johan Gernandt, Treasurer

'As Treasurer for the ELI, I am also glad that the ELI has received financial support from the European Commission and the Fritz Thyssen Stiftung. Only due to that support, together with the support of its members, has it been possible for the ELI to expand and take on new projects over the years. Despite the recent turn of events, English lawyers in the ELI will hopefully still contribute to the development of the European Community's laws in future and in so doing will simultaneously be inspired in their own domestic discussions.'

The law in Europe has a profound impact on the daily lives of European citizens, companies and organisations. As an independent organisation, the European Law Institute (ELI) aims to improve the quality of law, support its development and contribute to its proper implementation both on a national and European level.

At the heart of the ELI's activities are its projects, which can be either Statements or Instruments: the former are usually short-term projects that react to current developments, while the latter are proactive in nature and will often take several years of drafting. Alongside Hubs, which are national networks of ELI members, the ELI has also established Special Interest Groups (SIGs), through which it aims to scrutinise the latest, cutting-edge developments in the different fields of law. Participation in ELI activities is encouraged amongst all members, and those members wishing to play a particularly significant and decisive role in the functioning of the Institute can stand for election in the ELI Council. ELI members can also take part in various projects, either as project team members or as participants of Members Consultative Committees. The ELI is proud of its diverse membership, and values the variety of expertise and perspectives, which it brings to the organisation.

The ELI is partly modelled on the American Law Institute (ALI), which was founded in 1923 and has since become a landmark institution in the American legal system. Like its American counterpart, the ELI aims to unite jurists of the highest standing from all branches and professions of the law. The Institute operates on its own initiative but is also open for cooperation with other institutions that share its vision. Since its foundation, the Institute has established close working relations with European institutions such as the European Parliament, the European Commission and the Council of Europe, international organisations such as United Nations Commission on International Trade Law (UNCITRAL) and the International Institute for the Unification of Private Law (UNIDROIT), as well as institutions such as the Council of the Notariats of the European Union (CNUE), the European Network of Councils for the Judiciary (ENCJ) and the Academy of European Law (ERA).

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11:05 - 12:35 **ELI General Assembly (ELI members only)**

European Young Lawyers' Award – Winner's Presentation

Festival Hall

ELI Council Meeting

(in its outgoing formation - Council members only)

Nordbuffet

ELI ANNUAL CONFERENCE

14:00 - 14:30 **Welcome Addresses and Introduction**

Festival Hall

Diana Wallis, ELI President

Heinz W Engl, Rector of the University of Vienna

Paul Oberhammer, Dean of the Law Faculty of University of Vienna



Heinz W Engl is Professor of Industrial Mathematics at the University of Linz and the Rector of the University of Vienna (Austria). He studied Mathematics at Johannes Kepler University of Linz (Austria), a degree which was followed by a doctorate in 1977 and a habilitation in 1979. He became Vice-Rector of the University of Vienna in 2007 and subsequently Rector in 2013. Engl has received various prizes, including the Theodor Körner Prize in 1978, the Wilhelm Exner Medal in 1998 and the International Council for Industrial and the Applied Mathematics Pioneer Prize in 2007. He is also Honorary Professor of Fudan University Shanghai (China) and has an Honorary Doctorate from Saarland University (Germany).



Paul Oberhammer is the Dean of the Law Faculty of the University of Vienna and a Professor there. He is also Permanent Visiting Professor at the Law School of St Gallen University in Switzerland and a formerly Full Professor at Halle-Wittenberg University in Germany and Zurich University in Switzerland.

14:30 - 16:00 Plenary Session: Rescue of Business in Insolvency Law

(Presentation of final Project results and voting on draft ELI Instrument)

Festival Hall

Chair: Bob Wessels

Panellists: Jenny Clift, Tuula Linna, Stephan Madaus, Elsbeth de Vos

The Rescue of Business in Insolvency Law Project Team began their work in late 2013 with the challenging aim of designing elements of an appropriate enabling legal framework for business rescue in Europe. This includes certain statutory procedures that could better enable parties to negotiate solutions when businesses become financially distressed. The ELI is pleased to announce that the final report of this flagship Project is ready to be presented at the upcoming Annual Conference. Panel members include Prof em Bob Wessels (University of Leiden, The Netherlands) and Prof Stephan Madaus (Martin Luther University, Halle-Wittenberg, Germany), both of whom are Project Reporters.

The Rescue of Business in Insolvency Law Project is timely and may have a significant and positive impact on the harmonisation efforts of the European Commission as laid down in the November 2016 Proposal for a Directive on Preventive Restructuring Frameworks. The draft Instrument, which is over 375 pages long, contains 115 recommendations on a variety of themes affected by the rescue of financially distressed businesses: legal rules for practitioners and courts, contract law, the treatment and ranking of creditors' claims, labour law, laws relating to transaction avoidance and corporate law. Following the presentation and discussions, the ELI General Assembly will be given the opportunity to vote on the draft Instrument.

16:30 - 18:00 Detention of Asylum Seekers and Irregular Migrants and the Rule of Law

(Presentation of final Project results)

Nordbuffet

Chair: Marc Clément

Panellists: Fabrizio Cafaggi, Michael Fordham QC, María-Teresa Gil-Bazo Adriano Silvestri, Boštjan Zalar, Edith Zeller

The importance and urgency of tackling this Project arose as a result of an increased number of cases of third country nationals arriving in Europe either as asylum seekers or irregular migrants, many of whom, including children, were forced to stay in detention centres for long periods of time. The influx of individuals, usually fleeing their home countries as a measure of last resort, triggers a lot of controversies and has been addressed in cases seen by the Court of Justice of the European Union (CJEU), the European Court of Human Rights (ECtHR) and in national courts. It is crucial to guarantee that norms and rules enshrined by European and national laws are effectively and coherently implemented. The ELI is pleased to announce that its Project, which aims to contribute to the effective application of existing European law, including due process standards and conditions of detention, is drawing to an end. The final results of the Project, a draft Statement on the Detention of Asylum Seekers and Irregular Migrants and the Rule of Law, will be presented at the Annual Conference.

Please join the session, in which members of the Project Team will present a set of judicial checklist tools designed to provide much required guidance to European judges adjudicating detention cases and accompanying explanations.

16:30 - 18:00 Common Constitutional Principles in Europe

Festival Hall

Chair: Jeffrey Jowell

Panellists: Sabino Cassese, Mario Comba, Joerg Fedtke, Ornella Porchia, Jean-Marc Sauvé

The phrase 'constitutional traditions common to the Member States', has been formulated by the European Court of Justice and has found its way into the Treaty of the European Union and the Charter of Fundamental Rights of the European Union. This Project seeks to identify the source of those traditions; their content; their relationship with national identity; whether they are an autonomous source of European law, and the way in which they emerge as common to Member States and are expressed as such. The panel, chaired by Jeffrey Jowell, will pursue these questions and devise a research plan.

19:00 - 22:00 Evening Reception

Venue: Palais Trautson, Museumstraße 7, 1010 Vienna

Wolfgang Brandstetter, Austrian Vice-Chancellor and Minister of Justice

Diana Wallis, ELI President



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Wolfgang Brandstetter is the Austrian Federal Minister of Justice (since 2013) and the Austrian Vice-Chancellor (since 2017). He studied law at the University of Vienna (Austria) and received his habilitation in 1991. Brandstetter previously worked as a defence lawyer and as Professor of criminal law and criminal procedure law at the University of Vienna. Brandstetter has been Head of the Institute of Austrian and European Criminal Business Law of the Vienna University of Economics and Business since 2007 (but is temporarily on leave).



Thursday, 7 September 2017

Venue: Vienna City Hall, Lichtenfelsgasse 2 Entrance, 1010 Vienna

08:00 - 09:00 Registration

Festival Hall Entrance

09:00 - 10:15 From Transnational Principles to European Rules of Civil Procedure: Evidence, Provisional Measures and Service of Documents

Nordbuffet

Co-Chairs: Anna Veneziano, Diana Wallis

Panellists: Xandra Kramer, John Sorabji, Matthias Storme, Rolf Stürner

The ELI and UNIDROIT embarked on this joint Project in 2013 with the aim of developing Model Rules of European Civil Procedure which would reflect the common standards and best practices of European legislation in the area of civil procedure. Since then, the Project has grown substantially from three to nine Working Groups focusing on essential elements of civil procedural law.

At this Conference, the output of the three initial Working Groups will be presented and discussed for the first time. The first consolidated draft of model rules focuses on access to information and evidence, provisional and protective measures and service and due notice of proceedings. Members of the Steering Committee, members and a Co-Reporter of the 'Structure' Working Group, as well as the Chair of the Members Consultative Committee will present and discuss the first official consolidated draft of three sets of rules.

09:00 - 10:15 Building a Data Economy

Festival Hall

Chair: John Thomas

Panellists: Neil Cohen, Radim Polčák, Steven O Weise, Christiane Wendehorst, Mikolaj Zaleski

Data plays a significant role in today's global economy, leading to economic growth, job creation and further progress in innovation and technology. It is even considered the currency of the digital economy, its potential, if unleashed, is phenomenal (it is predicted to form 4% of overall EU GDP by 2020). While the law of commerce globally has historically focused on trade in items and on payment in monetary or other assets, in a data economy, tradeable items are often information represented, in particular, by a binary code. This joint ALI-ELI Feasibility Study seeks to analyse how law in the US and EU applies to the new data economy. It also takes into account US law at both Federal and State levels and the law of EU Member States. The first phase of this joint endeavour, the Feasibility Study, sets out the basic principles and main challenges both lawmakers in the US and in Europe face. It takes contract law as a starting point. This panel will explore relevant issues pertaining to the ongoing ALI-ELI work in the field and will consider questions such as the extent to which existing legislation enhances and boosts the data economy in the US and EU; the extent to which it is an impediment; and whether there is room for new legislation.



10:45 - 12:00 The Courts and Alternative Dispute Resolution

Festival Hall

Chair: Diana Wallis

Panellists: Tiina Astola, Naomi Creutzfeldt, Gregory Hunt, Felicitas Paller, Geoffrey Vos

This panel will present the preliminary findings of the joint ELI-ENCJ Project on the Principled Relationship of Formal and Informal Justice through the Courts and Alternative Dispute Resolution. The Project has already consulted on the risks arising from different methods of ADR, and the relationship between court-based and non-court-based dispute resolution processes.

It also consulted on a code of good practice as to what courts and judges need to assess when considering or requiring the parties to participate in an ADR process. The feedback received will be analysed and further discussed during the panel. The Project Team will present its final report at the end of 2017.

10:45 - 12:00 Rules and Standards for Online Intermediary Platforms

Nordbuffet

Chair: Fryderyk Zoll

Panellists: Christoph Busch, Hans Schulte-Nölke, Agata Wejman, Célia Zolynski

Since the last ELI Annual Conference, a new Project on ELI Online Intermediary Platforms is underway. It deals with online platforms that form marketplaces where customers can purchase goods or services from a multitude of suppliers (eg Ebay, Airbnb, Uber). The aim of this Project is to draft Model Rules which can serve as a source of inspiration for national, European or international lawmaking, for self-regulation and for drafting the terms and conditions of such platforms.

The panel will give insight into the Project Team's ongoing work and in particular will deal with two core aspects: the first is the question of the scope of any regulation or self-regulation. Should only platforms which form a two-sided marketplace where platform users conclude contracts with partners from the other end of the market be included? Or rather, should platforms that offer, for example comparison services or that allow ratings by customers be tackled? Is platform regulation mainly a consumer law issue or should a broader approach be taken? Secondly, increasingly aspects of 'compliance by design' and data-driven regulations fall within the focus of this Project. Are platforms required to adopt a design system which ensures that users offering goods or services via them fulfil their information requirements? Should platforms be obliged to use readily available data on transactions in order to identify users that have wrongly labelled themselves as consumers if the data indicates that they are using the platform in a business-like manner? The Project Reporters will discuss such questions with experts from regulatory bodies and from the platform industry.

12:05- 13:00 Keynote Lecture

Festival Hall

Micheal O'Flaherty, Director of the EU Agency for Fundamental Rights



Michael O'Flaherty has been Director of the EU Agency for Fundamental Rights (Vienna, Austria) since 2015. Previously, Michael O'Flaherty was Established Professor of Human Rights Law and Director of the Irish Centre for Human Rights at the National University of Ireland, Galway (2013–2015). He was Chief Commissioner of the Northern Ireland Human Rights Commission (2011–2013). From 2004–2012, he was a member of the United Nations Human Rights Committee, latterly as a Vice-Chairperson. He read law at University College Dublin (Ireland), theology and philosophy at the Gregorian University (Rome, Italy) international relations at the University of Amsterdam (The Netherlands) and is a Solicitor of the Irish Courts.

14:00 - 15:15 Business and Human Rights: Access to Justice and Effective Remedies

Nordbuffet

Chair: Diana Wallis

Panellists: Cees van Dam, Daphné Gogou, Jonas Grimheden, Jacquelyn MacLennan

Breaches of human rights by EU corporate commercial actors both outside and within the EU often involve intricate issues of cross-border access to justice and enforcement where a coherent approach continues to be lacking. Europeans, as citizens and consumers, have a right to expect adherence to human rights norms in relation to the activities of EU legal personalities and their associates especially when the results of such activities provide products within the Internal Market.

However, inappropriate behaviour often evades justice in terms of compensating victims or enforcing good corporate behaviour because of complex issues of jurisdiction, applicable law and/or the lack of the necessary legal procedural framework. The panel will discuss the above call for clear legislative guidelines on how to improve access to effective and appropriate remedies when businesses violate human rights and values enshrined in EU law.

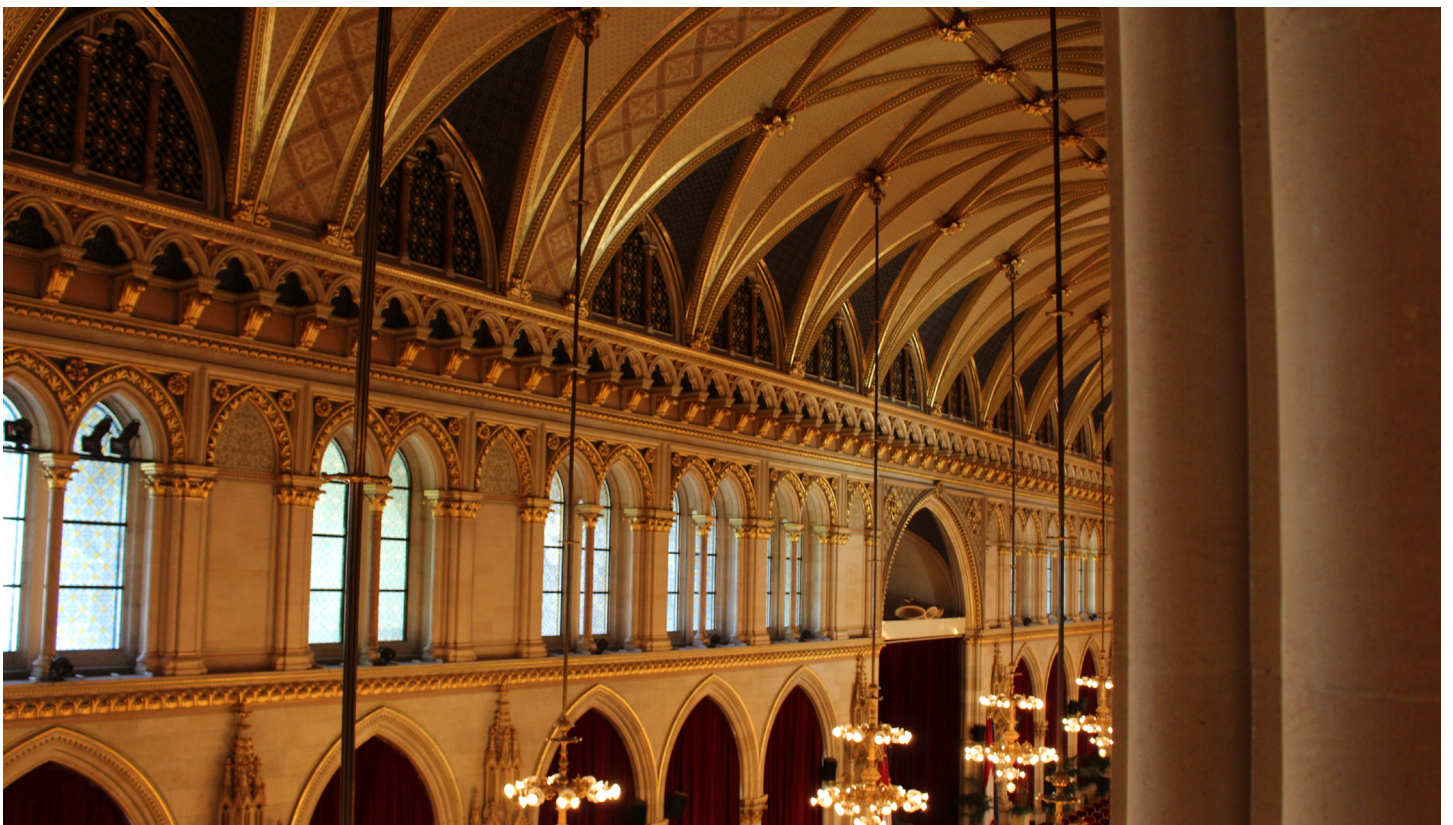
14:00 - 15:15 Internet of Things

Festival Hall

Chair: Christiane Wendehorst

Panellists: Mady Delvaux, Heike Schulze, Hans Schulte-Nölke, Mikolaj Zaleski

Advancing the Internet of Things (IoT), a concept describing an environment in which physical and virtual objects inter-network, is now high on the legal agenda (see eg the European Commission's 'Advancing the Internet of Things in Europe (2016)'). The expected benefits of the IoT span from increased safety and efficiency to promoting the independence and improved quality of life of senior citizens. At the same time, there are certain challenges which must be addressed: inter alia, a balance needs to be struck between fostering innovation and consumer protection. In so doing, the law must also respond to the question of common European national and industry standards. In particular, the questions of liability (civil and criminal) and data protection urgently have to be dealt with. This panel will explore the feasibility of future ELI work in the field, building on the ELI's successful work on other aspects of digitalisation and the EU's Digital Single Market Strategy.



15:45- 17:00 Third-Party Funding of Litigation

Nordbuffet

Chair: Remo Caponi

Panellists: Willem van Boom, Alexander Klauser, Peter Kolba

Third-party litigation funding has emerged as an increasingly viable alternative to traditional methods of funding litigation, and it can increase access to justice for those who would not otherwise be able to secure funding considering the rising costs of litigation. Amongst other sources crowdfunding, exemplified by Crowdjustice's funding of the 'People's Challenge', a case against the UK Government to determine parliamentary rights in the context of Britain's exit from the EU can assist in bringing cases of public interest to the fore.

At the same time, however, there are many challenges resulting from the current lack of regulation in this regard (eg with regard to the participation of funders in proceedings, conflicts of interest, judicial review, ensuring the fairness of the deal and the financial viability and trustworthiness of funders). Even more intricate problems arise in the context of collective redress. This panel will outline the evolving trends in litigation and raise the question on the need for harmonising the regulatory framework for third-party funding of litigation in Europe and in doing so seek to highlight the need to balance the interests of the various parties involved.

15:45 - 17:00 Fiduciary Access to Digital Assets

Festival Hall

Chair: Sjef van Erp

Panellists: Mady Delvaux, Christoph Grumböck, Radim Polčák

The Fiduciary Access to Digital Assets Feasibility Study Team is now working on a European version of the US Fiduciary Access to Digital Assets Act, Revised (2015). This model Act has proven to be extremely successful and has solved a number of problems in US legal practice. For Europe, a major problem is the diversity of national laws on property, succession and seizure. Can this diversity be overcome with a model law? In many national jurisdictions the status of digital assets has not yet crystallised. A clear example is the ongoing litigation in Germany concerning the legal nature of Facebook accounts and the question of whether access is allowed by interested parties under telecommunications law. The panel will discuss the difficulties which must be solved before a potentially successful model law can be drafted. Active input from participants would be highly valued.

Lance Liebman, Former Director of the ALI and Professor of Law at Columbia Law School



Lance Liebman is the William S Beinecke Professor of Law at Columbia Law School (USA). He teaches employment law, property law, and social welfare law. He began his tenure at Columbia Law School in 1991 as Dean, stepping down in 1996. He then led the Parker School of Foreign and Comparative Law for almost 20 years. Prior to this, he was a Professor at Harvard Law School (USA) for 21 years. In the Supreme Court's 1967 term, he was a law clerk to Justice Byron White. Liebman studied at Yale College (USA), at the University of Cambridge (UK) and at Harvard Law School. From 1999–2014, he was Director of the ALI. In that role he attended a number of meetings in Europe where establishment of the ELI was discussed and considered.



Friday, 8 September 2017

Venue: Faculty of Law, University of Vienna, Schottenbastei 10-16, 1010 Vienna

08:30 - 10:45 Digital Law SIG

U21 (meeting open to all)

11:15 - 12:30 Business and Financial Law SIG

U14 (members only meeting)

11:15 - 12:30 Contract, Tort and Property Law SIG

U21 (members only meeting)

11:15 - 12:30 Dispute Resolution SIG

U12 (meeting open to all)

14:00 - 15:15 Administrative Law SIG

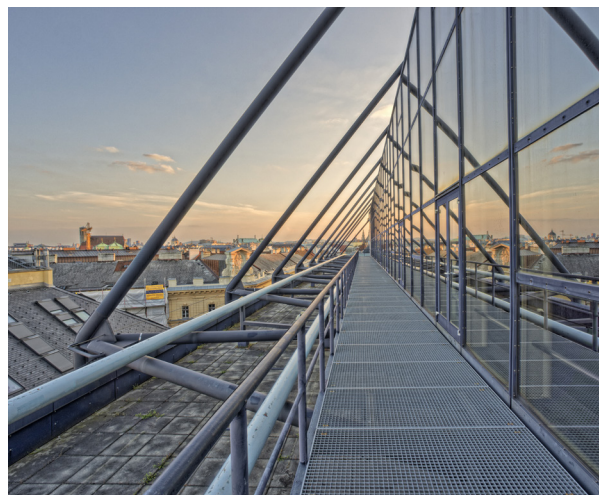
U12 (members only meeting)

15:20 - 16:35 Civil Law SIG

U21 (members only meeting)

15:20 - 16:35 Family Law and Succession Law SIG

U14 (members only meeting)



09:30 - 10:45 The Protection of Adults in International Situations

Top Floor (DG)

Co-Chairs: Richard Frimston, Pietro Franzina

Panellists: Robert Bray, Maja Groff

Due to the diversity of national legislations and court practice, persons who are unable to protect their interests because of an impairment or insufficiency of their personal faculties face practical difficulties. This includes elderly people suffering from dementia or victims of severe brain injuries. Currently their personal or financial interests are at issue in cross-border scenarios. The protection of their fundamental rights lacks the required degree of effectiveness, and legal security is far from being ensured. Scholars and practitioners agree that the legal framework in this area should be modernised, simplified and harmonised. The practical and political relevance of the topic is now confirmed by the Resolution adopted by European Parliament on 1 June 2017, under which the Commission has been asked to put forward rules to foster automatic EU-wide recognition and enforcement of protection measures, such as decisions on legal guardianship, and private mandates (2015/2085(INL)). This panel will provide an opportunity to scrutinise and assess key developments in this field, while potentially marking the start of a new ELI Project.

11:15 - 12:30 Empowering European Families

Top Floor (DG)

Chair: Elena Bargelli

Panellists: Wendy Schrama, Christiane Wendehorst

The Empowering European Families: Towards More Party Autonomy in Family and Succession Law Project, embarked on by the ELI, the University of Vienna and the University of Utrecht (the latter two being beneficiaries of an EU Action Grant for this Project), aims at raising awareness of the intricacies that come with being an international couple, or with moving across borders as a family, in the EU. More specifically, it aims at facilitating the free movement of citizens by developing contract templates concerning issues such as property, maintenance, and pension rights, including aspects of choice of law and choice of court, which couples and their legal advisers may use to express their choices and have better certainty about their rights and obligations when moving abroad. It will also develop contract templates for informal relationships in the EU (cohabitation agreements). This panel will present the results of the second workstream which dealt with property, maintenance and pension rights for both spouses and registered partners.

14:00 - 15:15 R&D Tax Incentives

Top Floor (DG)

Co-Chairs: Georges Cavalier, Mehdy Ben Brahim

Panellists: Sabine Kirchmayr-Schliesselberger, Jeffrey Owens

Increased research and development ('R&D') is one of the main objectives of the EU and has recently been emphasised even more intensely by the latter which hopes that expenditure in R&D grows to 4% of the EU's GDP by 2020. R&D tax incentives are estimated to stimulate investment and are an important means to reach this goal. Input tax incentives for R&D can take many forms, such as tax credits, enhanced allowances for expenditure on R&D, accelerated depreciation and even incentives that apply to social contributions and/or wage taxes. Although tax incentives for R&D are common in Europe, Member States designed their own tax incentive schemes from the outset without coordinating their domestic regimes with other Member States' regimes. Additionally, the EU Commission has re-launched its Common Consolidated Corporate Tax base project (CCCTB), with the aim of establishing common corporate tax rules and consolidating the calculation of tax across the EU.

The CCCTB project includes a R&D Tax Incentive scheme allowing for a deduction of up to double the R&D expense. A harmonised list of R&D expenses at European level and an articulation of the CCCTB and national R&D tax incentive systems is considered indispensable. A panel of outstanding experts will present and debate the stakes, challenges and current developments in this area.

15:20 - 16:35 Conflict of Laws and Digitalisation

Top Floor (DG)

Chair: Sjef van Erp

Panellists: Vanessa Knapp, Juliette Sénéchal, John Sorabji

As is the case with the law generally, legal rules still focus, first of all, on the 'real' world around us, just as legal proceedings are still based on printed (real) documents. Digitalisation of the law and legal proceedings increasingly makes us rethink existing laws in as far as this focus on the 'real' and not the digital or 'virtual' world creates a growing number of problems in legal practice. In the area of conflict of laws *lex rei sitae* traditionally plays the leading role. But how may one find the *situs* of data? What is the status of digital documents (such as an e-conveyance or an electronic statement of claim) abroad? When can they be recognised in a foreign jurisdiction? This new problem area will be explored by this panel.

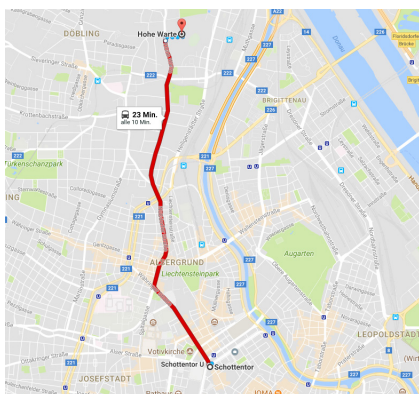
16:40 - 16:50 Closing Remarks: Newly Elected President

19:00 - 22:00 Social Event

Venue: Mayer am Pfarrplatz, Pfarrplatz 2, 1190 Vienna

Directions to Mayer am Pfarrplatz from Schottentor U-Bahn/tram station: take tram number 37 (below street level) to the final stop 'Wien Hohe Warte'. The tram runs every ten minutes and the journey takes approximately 19 minutes. From there walk north on Wollergasse toward Steinfeldgasse, carry on on Steinfeldgasse, turn right onto Grinzinger Straße, then left onto Nestelbachgasse and finally turn right onto Pfarrplatz (the destination will be on your left). The walk takes approximately 12 minutes.

Tram route to 'Wien Hohe Warte'



Walking route from 'Wien Hohe Warte' to the Heuriger



Mayer am Pfarrplatz



Panellists



Tiina Astola has been Director-General for Justice and Consumers at the European Commission since 1 February 2016. She deals with civil justice (including contract and company law), criminal justice, fundamental rights (including data protection and free movement), equality and consumer law and policy. Before joining the Commission, Ms Astola was Permanent Secretary of the Finnish Ministry of Justice, with overall responsibility for both international and domestic law matters, including courts and prisons. Prior to that, she headed units responsible for civil law and European law at the Department of Legislation of the Ministry and has also worked for the Finnish Ministry of Finance and the Finnish Foreign Trade Association.



Elena Bargelli is currently a Full Professor of Private Law at the University of Pisa (Italy). She was a Research Fellow of the Alexander von Humboldt Stiftung at the Max Planck Institute in Hamburg from 2008–2009, a Visiting Fellow at the Institute of Advanced Legal Studies in London from 2011–2012 and at the Yale Law School in 2007. She is currently a member of the ELI Council and Membership Committee and a coordinator of the Family and Succession Law SIG. She is also a Fellow of the European Centre of Tort and Insurance Law (ECTIL). Her main areas of research are contract, tort, family and housing law.



Mehdy Ben Brahim is an international tax and transfer pricing advisor for Questro International based in Zurich (Switzerland). He specialises in double taxation matters for multinational companies with a focus on intellectual property. Alongside his consultancy activities, he is engaged in academic research projects on regional and international tax coordination. He holds a master's degree in law from the University of Lyon (France) and a master's in international risk management from HEC Paris (France).



Willem van Boom is Professor of Law at the University of Leiden Law School (The Netherlands). Prior to this, he held professorships at Tilburg University (The Netherlands) from 2002–2005, Erasmus University Rotterdam (The Netherlands) from 2005–2014 and Durham University (UK) from 2012–2014. He has written and edited numerous publications and serves as a member of the editorial board of *Tijdschrift voor Consumentenrecht en Handelspraktijken* (the Journal of Consumer Law and Trade Practices).



Robert Bray worked for the European Parliament from 1997–2017, first in the Legal Service, subsequently in the Secretariat of the Committee for Legal Affairs and the Committee for the Internal Market and Consumer Protection. His final position was Head of Unit of the Secretariat of the Legal Affairs Committee. As a lawyer and a linguist, he also worked in private industry and for the Court of Justice of the European Communities, the European Economic and Social Committee and the Bank for International Settlements. He has a particular interest in legislative drafting, quality of legislation, private international law, comparative law and parliamentary immunity. He is the translator of a number of books and learned articles and has written and lectured on these topics.



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Remo Caponi is Professor of Civil Procedure at the University of Florence (Italy). He is also a Fellow of the Alexander von Humboldt Foundation and a member of the International Scientific Advisory Board of the Max Planck Institute Luxembourg. He was a Fernand Braudel Fellow in 2016 and a Senior Hauser Global Research Fellow from 2014–2015. He was previously a Visiting Professor at the University of Heidelberg (Germany) from 2014–2015. He has authored four books and about 200 papers in Italian, English and German.



Sabino Cassese is Emeritus Justice of the Italian Constitutional Court and Emeritus Professor at the *Scuola Normale Superiore* of Pisa (Italy). He also teaches at the *Libera Università Internazionale degli Studi Sociali* (LUISS) School of Government in Rome (Italy). Since 1961, he has served as Professor at the University of Urbino (Italy). Between 1993–1994 he was a member of the Italian Government and from 2005–2014 he was Justice at the Italian Constitutional Court.



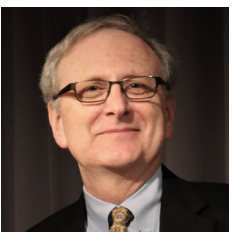
Georges Cavalier is Associate Professor of Law at the University of Lyon (France) and Academic Director for International Programs (North America). He holds two PhDs in law and an LLM from Georgetown University Law Center (USA). Georges was a member of the team drafting the ‘Paying Taxes’ section of the ‘Doing Business’ reports published by The World Bank Group. He is currently directing research on collective tax with the ELI.



Marc Clément is a Judge at the Administrative Court of Appeal of Lyon (France). From 2006–2012, he was a lawyer at the Directorate General Environment of the European Commission. From 2004–2006, he was a legal adviser of the European Environment Agency in Copenhagen (Denmark). Previously, he worked for private companies (Lyonnaise des Eaux, EDF). He is a founding member of the ELI and serves on its Executive Committee, Membership Committee and Council.



Jenny Clift is the Principal Legal Officer and Head of the Legislative Branch of the International Trade Law Division of the United Nations Office of Legal Affairs. The Division functions as the Secretariat for UNCITRAL. As Secretary of UNCITRAL’s Insolvency Working Group since December 1999, she has led the completion of a number of insolvency texts. Her current work includes legislative recommendations on the obligations of directors of enterprise group companies in the period approaching insolvency, a model law on the recognition and enforcement of insolvency-related judgments, model legislative provisions on the cross-border insolvency of enterprise groups and measures to facilitate the insolvency of micro, small and medium-sized enterprises. She has received INSOL International’s Scroll of Honour.



Neil Cohen is the Jeffrey D Forchelli Professor of Law at Brooklyn Law School and serves as the Director of Research of the Permanent Editorial Board for the Uniform Commercial Code (UCC). Since 2009, he has been a member of the US Department of State’s Advisory Committee on Private International Law. He has served as a member of the US delegation to UNCITRAL for its work on harmonising and modernising the law of secured credit, as a member of the Working Group at the Hague Conference on Private International Law and as an observer and Working Group member for the work of UNIDROIT in its development of principles for international contracts.



Mario Comba is Full Professor of Public Comparative Law at the University of Turin (Italy). Since 2013, he has served as the President of the University Institute of European Studies, and the Director of the LLM programme in ‘Public Procurement Management for Sustainable Development’. From 2010–2013 he was President of the School of International Studies at the Faculty of Political Sciences at the University of Turin. He is also the author of two books and over 70 contributions in books and law reviews.



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Michael Fordham QC is a human rights barrister in London (UK), a College Lecturer at Oxford University (UK) and a Deputy High Court Judge. He has argued many immigration detention cases in the UK Supreme Court, where he is also Lead Counsel for UNHCR, and originally represented the UK in Strasbourg in the Saadi case. As a Visiting Fellow of the Bingham Centre for the Rule of Law, Mike was lead author of the report 'Immigration Detention and the Rule of Law – Safeguarding Principles' in 2013.



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Richard Frimston is Partner and Head of the Russell-Cooke LLP Private Client Group in London (UK) and advises clients in relation to their wills, probate and tax planning issues. His areas of expertise include cross-border estates and private international law. He qualified as an English solicitor in 1979 and as an English Notary Public in 1995. He was awarded the STEP 2014 Geoffrey Shindler Award and is currently Chair of the STEP EU Committee and Co-Chair of the STEP Public Policy Committee and sits on the Law Society of England & Wales' EU Committee. Furthermore, he has co-edited 'The International Protection of Adults' for Oxford University Press.



Daphné Gogou has been a Senior Policy Officer at the Human Rights Unit in the European Commission, Directorate-General for Justice and Consumers since July 2013. Within DG Justice, she is in charge of the coordination of Business and Human Rights policy, focusing on access to remedy. She studied law at the University of Athens (Greece). She specialised in European Law at the Free University of Brussels (ULB) and in private international law at the University of Burgundy. Since joining the Commission in 1992, she has been working in the area of Telecommunications, Environment and Justice and Home Affairs. Before joining the Commission, she worked as a lawyer in the Athens Bar Association. She has written several publications in the area of migration and security law.



Jonas Grimheden is Senior Policy Manager at the European Union's advisory body for human rights within the EU, the EU Agency for Fundamental Rights in Vienna (Austria). He has been with the Agency since 2009 and previously headed FRA's access to justice work. He is a specialist in international human rights law, with work focused on justice, business and human rights, indicators and monitoring mechanisms.



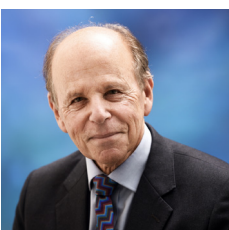
Maja Groff is Senior Legal Officer at the Hague Conference on Private International Law. Her current responsibilities focus on Hague Conventions that address the cross-border protection of vulnerable adults, three Hague Children's Conventions and the pioneering International Hague Network of Judges. She has played a key role in the potential new conventions/international cooperation mechanisms and liaises with professional bodies and other international organisations. She has drafted a range of Hague Conference preliminary documents and published numerous book chapters. A graduate of Harvard, Oxford, and McGill Universities, she is an attorney admitted to practice in New York.



Christoph Grumböck is a member of the Strategy Team of the Austrian Chamber of Notaries; he is Partner at a notariat firm in upper Austria; he was deputy head of the Institute for Multimedia Law Studies at the University of Linz (Austria); he holds lectures at the University of Linz and the University of Applied Sciences in Upper Austria; he is also an editor and author of publications in the field of private law and European law, especially consumer protection law.



Gregory Hunt has worked in ADR for 22 years and is the Managing Director of Hunt ADR Limited. He works with a range of clients in the UK and Europe providing guidance on the implementation of arbitration, mediation, adjudication and conflict management programmes. He also founded Disputeshock, the first subscription based ADR service. He is a Centre for Effective Dispute Resolution (CEDR) and Chartered Institute of Arbitrators (CIArb) accredited mediator and an accredited mediator skills trainer. He has mediated claims ranging from £30–£100m, and co-mediated on cases with a value of up to £300m. In June 2017, he helped train 100 law graduates develop their mediator skills.



Sir Jeffrey Jowell QC is a practicing barrister at Blackstone Chambers in London (UK). From 2010–2015 he was also the Founder-Director of the Bingham Centre for the Rule of Law. He is Emeritus Professor of Public Law at University College London (UCL) where he was twice the Dean. He has published and advised widely in the area of public law. He has been awarded a number of honorary degrees and was knighted in 2011 'for services to human rights, democracy and the rule of law in Europe'.



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Xandra Kramer is Professor of Law at the Erasmus School of Law in Rotterdam and at Utrecht University (The Netherlands). She conducts research and lectures in the area of private international law, international litigation and European private law. She was Project Leader and has participated in studies for the Dutch Ministry of Justice, the European Parliament and the European Commission. She serves as Editor-in-Chief of the Dutch journal on Private International Law (NIPR), and is on the editorial board of several other journals.



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Stephan Madaus is a Professor at Martin Luther University Halle-Wittenberg (Germany) where he teaches German, European and international insolvency law as well as contract and tort law. He was recently mandated (with two colleagues) by the German Ministry of Justice to evaluate the 2012 reform of the German Insolvency Code. He has published in prominent legal journals in Germany, Europe and beyond, including a treatise on the fundamental and doctrinal nature of rescue plans entitled *Der Insolvenzplan*.



Jeffrey Owens is the Director of the WU Global Tax Policy Center at the Institute for Austrian and International Tax Law (Vienna University of Economics and Business), Former Director of the OECD's Center for Tax Policy and Administration from 2001–2012. Currently he also serves as a Senior Policy Advisor to the Global Vice Chair of Tax at Ernst & Young, an advisor to the European Investment Bank, the World Bank and UNCTAD and a number of regional tax administration organisations. He is also the Chairperson of the Technical Advisory Panel of the Singapore Management University – TA Center for Excellence in Taxation Research Committee, and involved with a number of other NGOs. For over 20 years, he has focused his attention on questions of tax policy and tax administration, with particular emphasis on international taxation.



Felicitas Paller is a Judge at the Vienna Commercial Court (Austria). She specialises in company law, contract law and insolvency-related claims. As a contact point with the European Judicial Network (EJN) in civil and commercial matters she deals with matters of cross-border judicial cooperation. She is the founder of a court annexed mediation program which has been in place at the Vienna Commercial Court since 2009 and which has been adopted by eight other major courts in Austria. In 2015 she was a Weinstein JAMS Fellow and conducted research on 'mediation and the courts' in the US. She is also the President of the Austrian section of GEMME (*Groupement europeen des magistrats pour la mediation*).



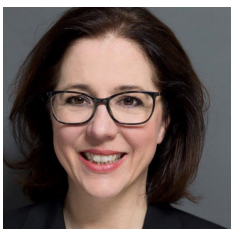
Radim Polčák is the head of the Institute of Law and Technology at the Masaryk University (Czech Republic). His professional interests include Information, Communication and Technology (ICT) Law (Cyberlaw), Energy Law and legal philosophy. Radim is the general Chair of the Cyberspace Conference; Editor-in-Chief of the Masaryk University Journal of Law and Technology; a panellist at the 'eu ADR' Arbitration Court; a founding member of the European Academy of ICT and Law and a member of governing bodies of ICT-law focused scientific journals and international conferences around the world.



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Jean-Marc Sauvé has been Vice-President of the *Conseil d'Etat* since 2006. He is also President of the panel set up by Article 255 of the Treaty on the Functioning of the EU. In 2012, he was elected President of the Association of the Councils of State and Supreme Administrative Jurisdictions of the EU. In 1977, after he graduated from the *Ecole nationale d'Administration*, he was appointed to the *Conseil d'Etat*. In 1981, he became an Assistant to the Minister of Justice and then held senior positions in the Ministry of Justice and the Ministry of the Interior. From 1995–2006, he was Secretary General of the Cabinet Office.



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Hans Schulte-Nölke is Professor of Law and Legal History at the European Legal Studies Institute at the University of Osnabrück (Germany), and Professor of Law at the Radboud University Nijmegen (The Netherlands). He is the author of several books and of a large number of articles in several European journals. From 2005–2009, he coordinated the ‘Common Principles of European Contract Law (CoPECL)’ Network. From 2010–2015, he was a member of the European Commission’s Expert Group on Contract Law. He regularly advises committees of the European and the German Parliaments as well as national ministries and international organisations. He was also elected to the Academia Europaea in 2016.



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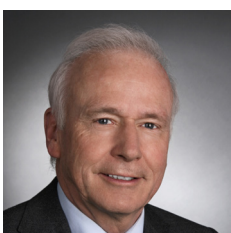
Adriano Silvestri is Head of Sector Asylum, Migration and Borders at the FRA in Vienna (Austria). His areas of expertise with respect to the FRA’s work include international human rights and refugee law as well as the EU *acquis* relating to asylum, borders and immigration. Before joining the FRA he was at the office of the United Nations High Commissioner for Refugees (UNHCR), where he worked in the field for several years (Armenia, the Russian Federation and Austria) as well as at UNHCR headquarters. He was involved in the development of UNHCR tools and guidelines, for example on the best interests of the child or on assessing protection gaps for internally displaced persons. He also worked for the World Wide Fund for Nature in the Altai-Sayan region.



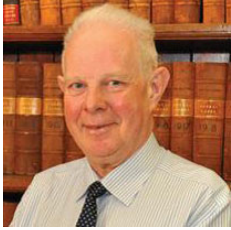
John Sorabji is the Senior Judicial Institute Fellow at UCL’s Judicial Institute as well as being the Principal Legal Adviser to the Lord Chief Justice and Master of the Rolls. At UCL he convenes undergraduate and postgraduate courses on ADR, and a postgraduate course on Principles of Civil Justice. He is also a Visiting Professor at the University of Paris-II where he teaches on its international law course. He is assistant editor of both the *International Journal of Procedural Law* and the *Civil Justice Quarterly*. He is a member of the White Book’s editorial board and editor of *Civil Procedure News*. He has published widely on civil justice and acted as an expert for the Council of Europe. He is a member of the ELI’s Executive Committee and a Governor of the Expert Witness Institute.



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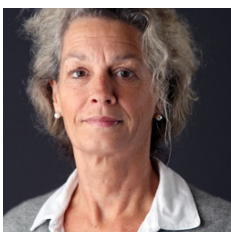
Rolf Stürner is Professor of Law at the University of Freiburg (Germany). As a Visiting Professor at Harvard Law School (USA), New York University Law School (USA) and many other Universities he has taught international civil litigation and comparative civil procedure. He served as a judge of the State Courts of Appeal of Karlsruhe and Stuttgart (Germany). He was President of the Association of German Proceduralists, Co-Reporter of the ALI-UNIDROIT Project on Principles of Transnational Civil Procedure and he is a member of the Steering Committee and the Structure Group of the ELI-UNIDROIT Project on From Transnational Principles to European Rules of Civil Procedure.



Lord John Thomas has been Lord Chief Justice of England and Wales since 2013. He was appointed a judge of the High Court of England and Wales in 1996, became Judge in Charge of the Court in 2002 and in 2003 he was appointed Lord Justice of Appeal. Lord Thomas was the Senior Presiding Judge for England and Wales (2003–2006) and Vice-President and then President of the Queen’s Bench Division (2008–2013). He was President of the ENCJ (2008–2010). He is an Honorary Fellow of Trinity Hall, Cambridge, and serves as a member of the ELI Council.



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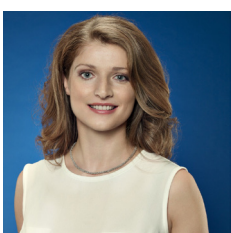
Lord Geoffrey Vos is the Chancellor of the High Court in England & Wales (UK), having been appointed to that role in 2016. He was appointed a Lord Justice of the Court of Appeal of England and Wales in 2013, when he became a member of the Privy Council. He was also appointed a Judge of the High Court in 2009 and served previously as a judge of the Courts of Appeal of Jersey and Guernsey and of the Cayman Islands. Moreover, he was President of the ENCJ from January 2015–June 2016. He was educated at Gonville & Caius College Cambridge from 1973-1976 and was elected as an Honorary Fellow of that College in 2015.



Diana Wallis is President of the European Law Institute. After a diverse legal education in London, Liège, Zurich and Chester, she gained over 15 years of professional experience as a litigation lawyer. From 1999–2012, she was a Member of the European Parliament and a leading member of its Legal Affairs Committee. Since leaving the European Parliament, she has continued her activities in the European legal field as member of various institutions and speaker at many events across Europe.



Steven O Weise has extensive experience in commercial law and contract matters, especially in transactions secured by personal property. He is a member of the Council of the ALI. He also lectures widely on commercial law topics and legal opinion letters and is the author of over 100 articles on these topics. He has been a member of and an advisor to UCC Article 9 Drafting Committees and is the representative of the American Bar Association to the United Nations Commission on International Trade Law Working Group on Secured Transactions. He is also a member of the Permanent Editorial Board of the UCC.



Agata Wejman is co-founder and board member of Inpris, a think tank working on quality of governance, law and society. She is a lawyer and public policy practitioner with experience in technology, financial, and public sectors in Europe and the USA. For the past seven years, Agata led public policy work at Google and Uber in Europe. Before joining the tech sector, Agata was a lawyer at the World Bank in Washington DC (USA), the Polish Central Securities Depository, the European Commission and the European Central Bank. Agata studied law at Harvard Law School (USA), the Jagiellonian University in Cracow (Poland), and the University of Heidelberg (Germany), and was clerk to the Chief Justice of the Constitutional Court of Poland.



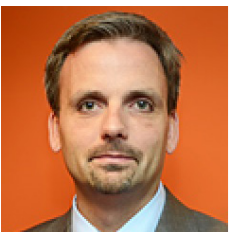
Christiane Wendehorst is Professor of Law at the University of Vienna (Austria). She is a member of the ALI, the Academia Europea, the Austrian Academy of Sciences, the International Academy of Comparative Law, and several international research groups. Before coming to Vienna, she held Full Professorships in Germany and served as Managing Director of the Sino-German Institute for Legal Studies. She is on the board of a range of academic bodies and associations and provides expert advice to governments and legislative bodies. Wendehorst is Vice-President of the ELI and one of its founding members.



Bob Wessels is Chairman of the Conference of European Restructuring and Insolvency Law (CERIL), Fellow of the American College of Bankruptcy, member of the ALI, Honorary Member of INSOL Europe and has, until 2016, served as Deputy Justice at the Court of Appeal (The Hague, The Netherlands). He was Professor Emeritus of International Insolvency Law at the University of Leiden (The Netherlands) from 2007–2014. Prior to this position he was Professor of Commercial Law at Vrije University (Amsterdam, The Netherlands). He has over 40 years of experience as an independent legal counsel and arbitrator and acted as consultant to the International Monetary Fund, the World Bank and since 2010 has been Expert Counsel to the European Commission.



Boštjan Zalar is a Senior High Court Judge of the Administrative Court of the Republic of Slovenia and an *ad hoc* Judge of the European Court of Human Rights. He is also a lecturer at the Legal Clinics on Refugee Law at the Faculty of Law, University of Ljubljana (Slovenia), the Vice-President of the European Chapter of the International Association of Refugee Law Judges (IARLJ-Europe) and the Co-Chair of the Working Party on Country of Origin Information and Country Guidance of the IARLJ. He is the former Co-Chair of the Working Party on Asylum and Immigration of the Association of European Administrative Judges and a member of the ELI Council.



Mikolaj Zaleski works in the Civil and Contract Law unit in the European Commission's Directorate-General for Justice and Consumers. He is a team leader, co-responsible for proposals for a directive on the supply of digital content and for a directive on online and other distance sales of goods. He contributes to European Commission's work on legal aspects of data economy and the IoT. In the past he has participated in the legislative process related to the proposal for the Common European Sales Law and assisted the European Commission Expert Group on the European Contract Law.



Edith Zeller is President of the Association of European Administrative Judges (AEAJ). Prior to this she served as its Secretary General from 2006–2014. She was appointed administrative judge at the Viennese Administrative Court in 2003. Additionally, she has previously worked inter alia as a legal assistant at the Austrian Supreme Administrative Court and was referee in the Austrian parliamentary administration. Furthermore, she was (Senior) Expert in EU Twinning Projects. During her doctoral studies, she was also a part-time lecturer of public international law. In the course of those responsibilities she has gained extensive experience and insight into relevant issues of different administrative jurisdictions in Europe.



Fryderyk Zoll has been Professor of European, Polish and Comparative Private Law at the University of Osnabrück (Germany) since 2011 and Professor at the Jagiellonian University (Poland) since 2006. From 2011–2015, he was a member of the Drafting Team of the Polish Codification Commission. He has been an associated member of the International Academy of Comparative Law since 2010, a member of the Acquis Group and a member of the Common Frame of Reference Team since 2005. He is also a Managing Publisher of the Journal *Transformacje prawa prywatnego*.



Célia Zolynski is Professor of Law at Versailles Saint Quentin Paris-Saclay University (France), specialised in European Digital Law and Intellectual Property. Member of the French Digital Council (CNNum) and of the Foresight Committee of the French Data Protection Authority (CNIL), she leads several national and European projects about privacy protection and business models promoting multidisciplinary research with computer scientists and researchers on economics.

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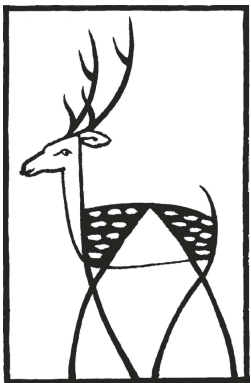


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ELI in Vienna

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We cordially invite you to visit us whenever you are in Vienna.



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