



ELI
EUROPEAN
LAW
INSTITUTE

ELI Updates December 2012



Message from the President

Dear Members and Friends of the ELI,

As I hope that you will have seen from our recent newsletters, the European Law Institute has made great progress over the past few months on all fronts, and in particular on our core activity - our projects - about which there will be more to report soon.

I would like here to focus on a recent development which has already proved popular: the setting up of national hubs, which would bring together practitioners, scholars and judges who are Members of ELI within a particular national jurisdiction.

The idea was first suggested in Dublin, in the course of an ELI presentation there, and was well received. Judge Gilligan, President Elect of the European Network of Councils for the Judiciary, agreed to work towards setting up an Irish Hub, and has reported that progress is being made on this.

The idea was endorsed at the recent meetings of the ELI Council and Senate in Brussels, and so far steps have been taken towards setting up other national hubs in France, Germany, Spain, the Netherlands and the United Kingdom, with the French Hub successfully launched in Paris on 5 December: see the report on page three.

I hope that the idea of national hubs proves both attractive and useful, and that other countries might follow suit. Further suggestions are set out in this newsletter: see "National 'Hubs' for the ELI" and also "FAQ on ELI Hubs". I would welcome your feedback. Please also feel free to contact the Secretariat in Vienna if you have any queries.

With the season's greetings and all good wishes for the New Year,

Sir Francis Jacobs, President of the ELI

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National “Hubs” for the ELI

Sir Francis Jacobs

At first sight, the idea of creating national hubs for the ELI could be seen as contradicting the pan-European spirit of the ELI and its Membership. However, we believe that the opposite is true and that national hubs may be very conducive to better implementing the vision of the ELI throughout Europe. A national hub could, for example:

- help to arrange occasional presentations of the ELI and its work within the jurisdiction, and could also enable Members to discuss ELI projects in their native language;
- be a link with the ELI, encouraging communication in both directions;
- encourage suitable persons to join the ELI, and professional organisations to become observers;
- help to provide some publicity for the ELI in law journals and at law conferences and other events, such as meetings of judges, academics and practitioners.

The principal activities of the hubs could be announced, and reported, in the ELI newsletter.

How should this be done? It may not be helpful at this stage to try to develop any general formula on the setting up of a hub. Obviously existing associations of lawyers with an interest in European law, and University institutes of European law, might take part. In some countries, the national associations of FIDE (Fédération Internationale pour le Droit Européen) might be involved; in other countries, an ad hoc group might be more appropriate. Members of the ELI Council and Senate might also assist in setting up the hub in their respective countries.

In all cases, it would seem best, at least for the present, to select whatever method is most appropriate to the local circumstances, and to set up the group informally, avoiding a prescriptive approach, but ensuring that the hub is fully representative. Clearly all Fellows of ELI within the jurisdiction should automatically be part of the hub, without further formality, and no single individual or institution should monopolise the hub in a particular country.

The hubs should of course keep the ELI fully informed of their activities. For this purpose, the ELI Members in each hub should appoint a speaker, who should keep in close contact with the ELI Secretariat in Vienna.

It is also, of course, essential that the name of the ELI and its logo are used only for activities which are directed to serving the interests of the ELI. They should not be used in way that might risk particular statements or publications being mistakenly considered as statements or publications of the ELI.

Subject to such minimal requirements, hubs should be free to develop their own ideas.

L'antenne française de l'Institut européen du droit est formée à Paris

*Marc Clément et
Bénédicte Fauvarque-Cosson*

Cette première réunion de l'antenne française avait vocation à présenter les développements de l'Institut européen du droit, fondé à Paris le 1er juin 2011, aux membres et aux sympathisants français de l'Institut. Cette réunion a rassemblé une soixantaine de participants, de toutes les professions.

En introduction à cette matinée, Jean-Marc Sauvé, Vice-Président du Conseil d'Etat, membre du Sénat d'ELI, a rappelé la place capitale du droit dans la construction européenne aussi bien pour ce qui concerne l'Union européenne que le Conseil de l'Europe. Il a insisté sur le fait qu'il est essentiel pour toutes les traditions juridiques européennes et toutes les branches du droit d'échanger pour participer activement à ce mouvement; il est indispensable que les juristes français s'inscrivent pleinement dans ce mouvement. (voir pour l'intégralité de l'intervention <http://www.conseil-etat.fr/fr/discours-et-interventions>).

Ont été ensuite successivement présentés, l'organisation interne de l'Institut (Carole Aubert de Vincelles), les liens entre l'Institut et d'autres organismes internationaux, notamment l'American Law Institute (Bénédicte Fauvarque-Cosson), les moyens pour les membres de l'Institut de participer aux projets (Marc Clément), les possibilités d'adhésion à l'Institut (Bernard Reynis) et l'intérêt pour les praticiens du droit de participer aux activités de l'Institut (Denis Philippe).

The ELI's French Hub is formed in Paris

*Marc Clément
and
Bénédicte
Fauvarque-
Cosson*



The inaugural meeting of the French Hub aimed at presenting the European Law Institute to its French Members and supporters. It was attended by about 60 participants from all legal professions.

As an introduction to the meeting, Jean-Marc Sauvé, Vice President of the Conseil d'Etat and Member of the ELI Senate, underlined the central position of law in the European construction, with regard to both the European Union and the Council of Europe. He stressed the fact that it is crucial for all European law traditions and every field of law to take an active part in this movement and it is essential that French lawyers get fully involved in this trend (Jean-Marc Sauvé's speech can be accessed at: <http://www.conseil-etat.fr/fr/discours-et-interventions>).

During the meeting, several aspects of the European Law Institute were presented: the internal organisation of the Institute (Carole Aubert de Vincelles), the relationships between the Institute and other international organisations, notably the American Law Institute (Bénédicte Fauvarque-Cosson), the different ways for the Members of the ELI to take part in projects (Marc Clément), the different ways of subscribing to the Institute (Bernard Reynis) and the reasons for law practitioners to participate in the Institute's activities (Denis Philippe).

Afin d'illustrer les activités menées par l'Institut, les projets réalisés (commentaire sur la proposition de règlement relatif au droit commun européen de la vente, prise de position sur le fonctionnement de la Cour européenne des droits de l'homme) et à venir ont été présentés. Il est souligné que l'Institut permet une labellisation de projets en apportant une triple plus-value: sa dimension réellement pan-européenne, son caractère pluridisciplinaire et la représentation en son sein à la fois des universitaires, des juges et des autres professions juridiques.

L'antenne française de l'Institut a été créée. Elle aura pour objectif de favoriser l'implication des membres de l'Institut qui résident en France en servant de lien avec les organes et les projets de l'Institut. Elle pourra ainsi contribuer à organiser des présentations d'ELI et du travail accompli, et permettre aux membres de discuter des projets d'ELI, en français, en présence des représentants des organisations professionnelles qui sont observateurs. Elle pourra aussi contribuer à diffuser des informations sur ELI et ses membres pourront présenter les travaux d'ELI à des conférences, ou à d'autres événements tels que des rencontres de juges, universitaires et praticiens.

Il ne s'agit pas de créer une section française de l'Institut mais bien de faciliter la communication entre les membres et de permettre une participation plus aisée par l'identification des membres français impliqués par exemple dans les différents comités ou projets. A cette fin une diffusion d'informations sera régulièrement assurée par voie électronique. Des réunions pourront être proposées par exemple à l'initiative de membres voulant débattre d'une proposition de projet ou réagir dans le cadre de projets.

In order to illustrate the activities that have been carried out by the Institute, the completed projects (a Statement on the Proposal for a Common European Sales Law and a Position taken on the functioning of the European Court of Human Rights) and ongoing projects were presented. The ELI can provide a quality mark for projects by offering considerable added value: its truly pan-European dimension, its multidisciplinary character and the representation, within the Institute, of law academics, judges, practitioners and other law professions.

The French Hub will aim at encouraging the Institute's Members who live in France to take an active part in the Institute's work. The French Hub will help to arrange occasional presentations of the ELI and its work and will enable Members to discuss ELI projects in their native language, in the presence of the professional organisations who have become ELI Observers. The French Hub will also help to provide publicity for the ELI at law conferences and other events, such as meetings of judges, academics and other legal practitioners.

This hub does not constitute a French section of the ELI but rather a means of facilitating communication and participation among its French Members. French ELI Fellows are invited to initiate meetings of the French Hub and propose ideas for new projects or react to current projects.

*To learn more about the French Hub
please contact:*

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FAQ on ELI Hubs

Who belongs to a national hub? Is it nationality that decides, or habitual residence, or something else?

The ELI believes there should not be any strict rules on this, and that Fellows of the ELI should normally be free to take part in any national hub with which they believe they have a connection, be it by nationality, permanent or temporary residence, or professional interest. Usually, the ELI Secretariat will sort members by habitual residence or place of work, and for the organisation of hubs the mailing lists of the Secretariat will be used (fully protecting your email addresses and personal data). If you would like to take part in the activities of a particular national hub but suspect this wish of yours may not be obvious to others, or if you realise you are not receiving invitations, you are kindly asked to contact the Secretariat .

Will the national hubs be legal entities under the relevant national law? Do they have to follow decisions made by the ELI?

At least for the time being, it will probably not be appropriate to establish national hubs as self-standing legal entities, e.g. non-profit associations, under the applicable national law. This would create dual and potentially conflicting membership duties, possibly even dual membership fees, which is not what the ELI envisages. Also, the ELI may, in the future, decide that there must be guidelines for the work of national ELI hubs, and any national hub would have to subscribe to such guidelines even if they are issued at a point in time long after the hub was established. National ELI hubs thus ultimately work under the auspices and guidance of the ELI, not of separate legal entities.

Who decides on who will organise a national hub? Will these individuals or institutions be selected by the ELI? Is it according to the 'first come, first serve' principle?

A national hub consists of all the ELI Members with a habitual residence or place of work in a particular jurisdiction, or who have asked to have their names added to the list. These ELI Members may organise themselves, in close cooperation with the ELI Secretariat, and decide on who acts as speaker or prepares events. However, experience shows that usually someone must take a leading role. In most cases, individuals or institutions will approach the ELI and offer to organise a launch event, and the ELI might accept this or suggest liaising with others, depending, inter alia, on aspects of inclusiveness and infrastructure. In some cases, the ELI itself will approach individuals or institutions and make a proposal. Depending on what the members assembled in a national hub decide, other individuals or institutions may take the lead later.

In what way will the work of the national hubs be linked to the work of the ELI, and what kind of support will the ELI Secretariat provide?

The ELI is keen to have very close links with its national hubs, and to profit as much as possible from their valuable input and creativity. National hubs are kindly asked to inform the Secretariat of any activities in advance, so that they can be announced in the newsletter and on the ELI website. The Secretariat will assist hubs also in sending information to the relevant participants and provide further assistance, where possible. Unfortunately, the ELI is not in a position to reimburse Members who are active in a national hub for their expenses. In really exceptional cases, you may contact the ELI Secretariat, e.g. if you need a small amount of funding in order to organise a launch event.

If I am active in a national hub: may I use the ELI logo for local events, in particular conferences or lecture series, and may I put the logo on my website?

The national hub may use the ELI logo for activities directly linked with the ELI, for instance, if you wish to launch a discussion on a current ELI project in your native jurisdiction and language, provided you do not create the impression that the views expressed at the event are the official views of the ELI. It would not be permissible, however, to use the ELI logo for a conference flyer where the conference is on a European topic but fails to have any plausible direct link with the work of the ELI. Likewise, individuals or institutions may not place the ELI logo on their websites just because they are active in an ELI national hub.

Payment of ELI Membership Fees

The successful work of the ELI is dependent not only on its Members' intellectual input but also on their paying of the annual membership fees. We would like to thank the vast majority of our Members who have so far been paying very promptly and reliably, many of them even making a donation in addition to their annual fee. We would like to take this opportunity to remind those very few individuals who have received reminders to take them very seriously.

With the New Year approaching, we would like to urge those of our Members who have not already done so to effect the annual payment of their membership fee via a **standing order**. Using a standing order to automatically pay your ELI membership fees has significant advantages as it reduces the time and effort involved both in making manual payments every year and in sending out reminders from the Secretariat.

Payment of your ELI membership fees for 2013 is now also possible via PayPal. Having a PayPal account is not necessary as the system also allows payments to be made directly, e.g. by credit card. You will be able to access the PayPal function via a direct link on the right hand side of the ELI website, and a link will also be included with future invoices.

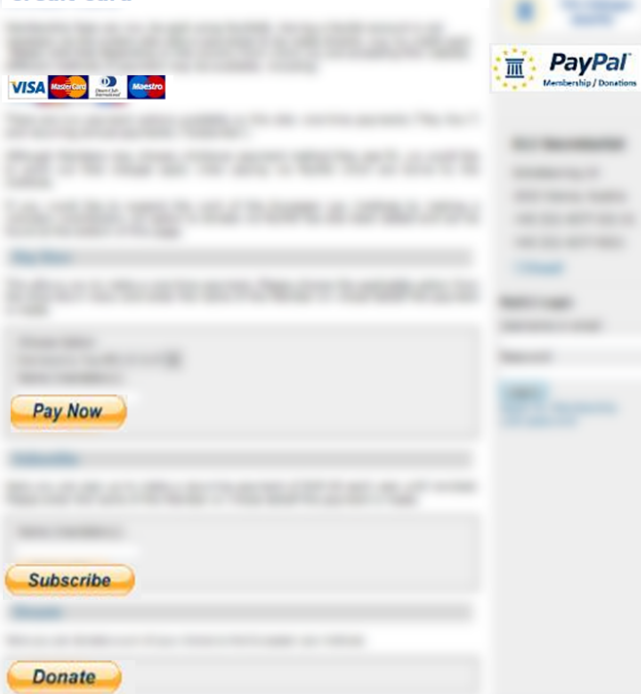
Although Members may choose whichever payment method they see fit, we would like to point out that charges, which are borne by the Institute, do apply when paying via PayPal.

PayPal offers two options: the "Pay Now" function is for one-time payments, but you can also select the "Subscribe" function and set PayPal to automatically pay your fees each year. A third PayPal button has also been added to the website which allows individual donations to be made.

In addition to the newly introduced PayPal payment method, the Secretariat is currently exploring the idea of SEPA direct debit, whereby membership fees could be automatically withdrawn from the accounts of those Members who opt to use this payment method.

We will be issuing invoices for 2013 membership fees early in the new year, and we hope that these new options and recommendations about payment methods will be helpful.

Payment of Membership Fees via PayPal or Credit Card





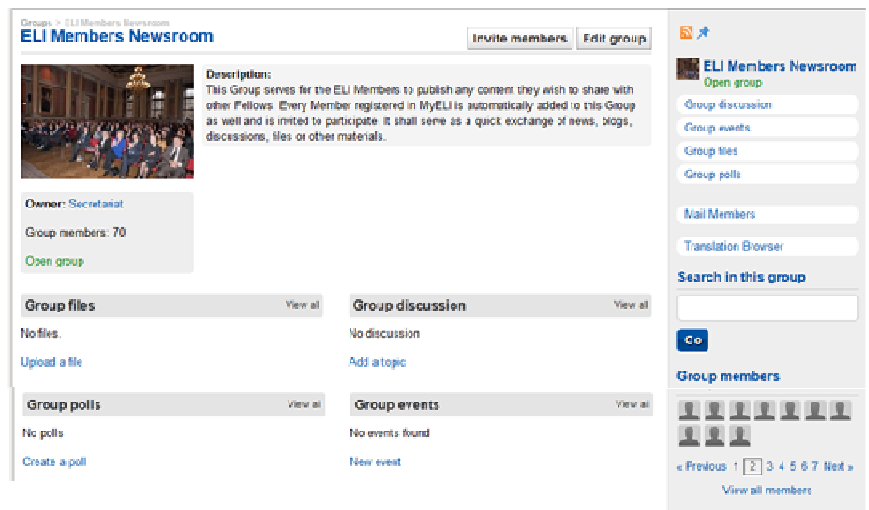
Development of the MyELI Platform

MyELI is an online platform set up and administrated by the ELI Secretariat. The MyELI platform was established to enhance and facilitate communication between ELI bodies, working groups and their members and to provide collaborative working tools.

The site is currently being used by ELI Council Members as a trial run. A MyELI “Group” has been created for each official ELI body, and once all Members are registered we hope that these platforms will prove extremely useful as communication tools. They will, to a large extent, replace email communication, which has started to become less and less efficient due its inflationary use in the modern working environment.

MyELI will also be a useful aid for scheduling, as all ELI events will be published on the platform. ELI project teams and Members Consultative Committees (MCCs) are strongly encouraged to make use of MyELI.

We hope to provide all our Members with access to MyELI early in the New Year. MyELI users will be able to provide information about themselves on their own “Profile” page, and search for other MyELI users using an online directory. The MyELI platform also enables its users to create “Groups” and announce “Events”. Documents can be shared between group members and open discussions can take place on the website. Moreover MyELI allows “Polls” to be created and shared, allowing decisions to be made very efficiently.



Screenshot of the ELI Members Newsroom Group, a public group where all the latest news and information will be posted

We truly hope that the MyELI platform proves useful, and we look forward to your participation in this new venture during the coming months.

More information about registering for and using MyELI will be provided when the platform is launched for all ELI Members.

Project related discussions of the EC in Paris

On 21 November 2012 six out of seven members of the ELI Executive Committee (EC) held a meeting in Paris to discuss the current state and the future prospects of the ELI. The meeting proved very productive.

Discussion of the current and upcoming ELI projects constituted a large part of the meeting. It was decided that Professor Martin Schauer would be asked to be the project leader for the Statement on the European Foundation Statute, a proposition which he has since accepted.

Sir John Thomas was given a mandate by the EC to restructure the CESL Working Party at his discretion and in view of the tasks that need to be fulfilled. The progress of the projects on Income Tax and EU Administrative Procedural Law were also discussed.

In light of Christiane Wendehorst's recent meeting with José Angelo Estrella-Faria, Secretary General of UNIDROIT, suggestions for joint UNIDROIT/ELI projects were discussed at some length. There was consensus that some of the topics suggested were particularly promising and should definitely be considered by the Projects Committee (PC).

Projects Committee Meeting in Vienna

The Projects Committee (PC) in its new composition convened on the premises of the ELI Secretariat in Vienna on 7 December 2012. The meeting, which was chaired by Professor Hans Schulte-Nölke, was very well attended and a lively and productive discussion took place throughout the day.

The PC members deliberated extensively on the 'Income Tax and Mobility of Individuals in Europe' project, and invited reporter Bertil Wiman to discuss its progress via teleconference. Attention was also paid to the project on 'Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law' and a telephone conference was held with Professor Katalin Ligeti who, together with John Vervaele and André Klip, helped the PC in developing the project proposal.

Moreover Professor Martin Schauer, who is leading the project on a European Foundation, was able to briefly join the meeting and report on the current state of play of the project in person.

New project ideas which were suggested at the September ELI Project Conference and the General Assembly in Brussels were received with great interest and discussed among the members of the PC. They will be the subject of further discussion at the next PC meeting, which will take place on 7 February 2013, ahead of the Council meeting the next day.

The PC distributed responsibilities among its members, who, in preparation for the next PC meeting, will liaise with potential experts and further elaborate on the project ideas discussed.

ELI meets the Secretary of UNCITRAL

On 29 November 2012 ELI Executive Committee Member Christiane Wendehorst met the Secretary of the United Nations Commission on International Trade Law (UNCITRAL) Renaud Sorieul.



The prospects of future cooperation between UNCITRAL and the ELI were discussed at the meeting, and the vast potential for mutual exchange at this time, in particular in the field of online trade including online dispute resolution, was recognised by both parties.

From early 2013 UNCITRAL would be prepared to send online trade experts to support the ELI Working Party on European Sales Law. Other forms of cooperation in this, and other fields, might follow.

In September 2012 the ELI became an observer to UNCITRAL. The ELI has been included in the list of non-governmental organisations eligible for invitation to the session of UNCITRAL and its working groups. The ELI's representatives have taken part in these sessions ever since.



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Building on the wealth of diverse legal traditions, the European Law Institute's (ELI) mission is the quest for better law-making in Europe and the enhancement of European legal integration. By its endeavours, the ELI seeks to contribute to the formation of a more vigorous European legal community, integrating the achievements of the various legal cultures, endorsing the value of comparative knowledge, and taking a genuinely pan-European perspective.