



ELI

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Newsletter

May - June 2020

Bringing Legal Experts Together

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Message from Professor Pál Sonnevend

Dean of the Faculty of Law, Eötvös Loránd University

Dear ELI Members and Friends

The Faculty of Law of Eötvös Loránd University (ELTE) Budapest has always been strongly committed to European values and the European development of law. It was in this spirit that ELTE Faculty of Law undertook to host the 2020 ELI Annual Conference and Meetings in cooperation with the Constitutional Court of Hungary and the Curia of Hungary. As you are aware, the Annual Conference, like many similar large-scale events, had to be cancelled due to the COVID-19 pandemic.

We greatly regret that the event could not be held as planned. We are convinced that ELTE Faculty of Law and Budapest could have provided an excellent venue for this most significant event and it would certainly have fitted in the more than 350 years tradition of our faculty. ELTE Faculty of Law, the oldest and top-ranked law faculty in Hungary, has, from its founding in 1667, provided a sparkling environment for academics with a strong European outlook. Research on and the teaching of EU law and international law continues to receive particular attention at the Faculty. The Jean Monnet Centre of Excellence of the Faculty, which was established with the aim to promote research and teaching on EU integration and EU law, is the leading research centre in EU law in Hungary. Besides, we are currently home to two Jean Monnet modules. Our curriculum allows undergraduate students to specialise in EU law and international law, and we offer three English language LLM programmes in these fields.

The Hungarian ELI Hub was launched at ELTE Faculty of Law with an inaugural conference on the legal implications of

Brexit. The conference was opened by Christiane Wendehorst, the President of ELI. In 2019, the Hungarian ELI Hub organised its second conference on 'Hungarian cases before the Court of Justice of the European Union' again at ELTE Faculty of Law. These two conferences gave an initial impetus to the growing ELI community in Hungary.

The members of the Hungarian ELI Hub highly appreciate the current ELI webinar series. This series of online events provides an alternative forum for excellent lectures and discussions on various current topics, including COVID-19 and hardship, COVID-19 and contract law, COVID-19 and rule of law. The online webinars undoubtedly demonstrate that the pandemic cannot hold up academic exchange. On the contrary, the epidemic has given a stimulus to an intense scholarly debate. The free movement of ideas and knowledge cannot be impeded even during a time of closed borders.

Although we regret that we cannot host the ELI community this September, we shall not lose contact with ELI members. The Hungarian Hub and ELTE Faculty of Law have decided to join the academic exchange and have proposed to hold a webinar in August or September on 'The European Union and the COVID-19 crisis (Competences, actions, financial measures and the internal market).'

Further, ELTE Faculty of Law is intent on deepening its cooperation with ELI also through other ways. We continue to encourage our faculty members to participate in the work of ELI and we are firmly



determined to apply for the organisation of an ELI Annual Conference or other ELI events in Budapest, should the pandemic finally pass. I am proud to say that our Organising Committee has done a sterling work in preparing for the 2020 Annual Conference, and we hope to be able to build on this effort later on.

Until such time, we very much look forward to seeing you in Budapest at ELTE Faculty of Law and the ELI Hungarian Hub.

Professor Pál Sonnevend



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Message from ELI President

Dear ELI Members and Friends

I hope that you are well and coping with the ongoing challenges of the Coronavirus pandemic.

In the previous Newsletter we announced the publication of the [ELI Principles for the COVID-19 Crisis](#).

Since their release, the Executive Committee has worked hard to ensure that this publication reaches a wide audience and its contents are well understood and of the most use possible. The Principles have been translated into French and Italian and are so far scheduled to appear, either published in their entirety or discussed as part of other articles, in the following journals: *Revue de droit Suisse (RDS)*/*Zeitschrift für Schweizerisches Recht (ZSR)*, *Recueil Dalloz*, *Rivista di Diritto Civile*, *Zeitschrift für Europäisches Privatrecht (ZEuP)* and *Zeitschrift für Internationales Wirtschaftsrecht (IWRZ)*. Many thanks to my colleagues on the Executive Committee and in the ELI Council for securing these publications.

Furthermore we have launched a series of [online webinars](#) which seek to contextualise and elaborate on the individual principles. I am very grateful to all those who have been involved, especially Vice-Presidents Lord John Thomas and Pascal Pichonnaz and my other colleagues on the Executive Committee, Anne Birgitte Gammeljord, Pietro Sirena, Denis Philippe and Fryderyk Zoll, for putting so much time and effort into delivering these webinars. Thanks to the calibre of the speakers and relevance of the topics, I have been delighted, but not surprised, by the great interest shown by ELI members, with some webinars attracting over 100 live participants. More detailed information about the webinars can be found on pages 6 and 7 of this newsletter. Once again my thanks goes to all the speakers and to everyone who has taken the time to join the discussions.

A significant change at the Secretariat in Vienna has also taken place this month as Secretary General Dr Vanessa Wilcox has gone on maternity leave. This break comes three years into Dr Wilcox's time as Secretary General and as she goes on leave I would like to express my gratitude for the unfailing commitment, hard work and excellent leadership she has brought to the role.

Until Dr Wilcox returns the position will be filled by Professor Bea Verschraegen, who will act as Interim Secretary-General. Bea Verschraegen was Professor of Comparative and Private International Law at the University of Vienna (1998–2018) and, among many other accomplishments, is *Présidente honoraire* of the *Commission Internationale de l'État Civil (CIEC)*.

I join the rest of the Executive Committee in welcoming Prof Verschraegen to the Secretariat and wishing her every success as its Interim Secretary-General. Our very best wishes also go to Dr Wilcox as she enters an exciting new chapter - we hope it is a very joyful one.

Sincerely,
Christiane Wendehorst
ELI President



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Imprint

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Welcome New Interim Secretary-General

Overseeing the ELI Secretariat in Vienna during Dr Vanessa Wilcox's maternity leave will be Prof Bea Verschraegen, who took up the post of Interim Secretary-General of the ELI this June.

Bea Verschraegen was Professor of Comparative Law and Private International Law (PIL) at the University of Vienna (1998–2018).

She holds an LLM (King's College London and London School of Economics) and an MEM (Maître Européen en Médiation, Sion/Barcelona). She is, inter alia, Présidente honoraire of the Commission Internationale de l'État Civil (CIEC), Adjunct Professor at the University of Macau, Lecturer at the University of Vienna, co-founding member and former president of the Interdisciplinary Association of Comparative and PIL (IACPIL/IGKK), member of the Academia Europaea (AE), the International Academy of Comparative Law and chair of the Austrian Committee (IACL/AIDC), member of the American Law Institute (ALI), the European Law Institute (ELI), the Austrian Mediation Council, Fellow of the International Academy of the Belt and Road, and member of the International Council of the Belt and Road (Hong Kong).

In 2014 she was honoured with the Russian 'International Higher Juridical Prize', the Themis, by the 'International Fund for Support of Legal Initiatives' for extraordinary performance in the international domain.

She has worked as an expert on subjects such as 'Reform of the Civil Code'

for the EU in Kosovo, 'Reform of Law Studies' at the University of Macau, 'Marriage, Cohabitation, (Registered) Partnerships and Same-Sex Marriages in Continental Europe' for the Ontario Department of Justice (CA), on 'Civil Partnerships' for the German Federal Government, and the 'Reform of Russian PIL' at the Centre of Private Law in Moscow.

Prior to her return to Austria, she held a chair in Bielefeld (1994–1998), was a Lecturer and then Professor (C4, from 1992–1994) at the University of Frankfurt (Oder) and was Director of the European Integration Department at the Directorate for EU and International Affairs of the Austrian Parliament (1992).

One of the first challenges Prof Verschraegen will face in this role is overseeing the Annual Conference 2020, being run this year as an online event. Staff at the Secretariat have had to quickly get to grips with the technology required to host such an event, and think of ways to adjust the original plans to suit a digital format.

While it is disappointing not to be gathering in person, it is hoped that this year's Annual Conference may reach an even wider audience than previous years, especially as ELI Members who may not have been in the position to take several days out of

their schedule will this year be able to sign up for the areas of the conference that interest them the most.

A tentative agenda can be seen on pages 4 and 5 of this newsletter. More information on speakers and registration will follow in due course. Keep an eye on ELI [website](#) for details.



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ELI Annual Conference 2020
8 - 11 September (Online)
For ELI Members



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Online ELI Annual Conference 2020

Open to ELI Members
8–11 September 2020
Tentative Agenda

TUESDAY | 8 SEPTEMBER

09:00 - 12:00 Council Meeting (Council Members only)

14:00 - 16:00 Council Meeting (Council Members only)

18:00 - 18:15 **Welcome and Introduction**

18:15 - 19:45 **Second Ole Lando Memorial Lecture: Contract Law and Human Dignity** (Christian von Bar)

WEDNESDAY | 9 SEPTEMBER

09:00 - 12:00 Council Meeting (Council Members only)

13:00 - 14:00 Membership Meeting

16:30 - 17:00 **Welcome Addresses** (Christiane Wendehorst, Alma Zadić)

17:00 - 18:00 **Keynote Speech** (Didier Reynders)



Alma Zadić



Didier Reynders



Christian von Bar

THURSDAY | 10 SEPTEMBER

- 09:00 - 10:15 **Artificial Intelligence (AI) and Public Administration**
Developing Impact Assessments and Public Participation for Digital Democracy
- 10:30 - 11:30 **Admissibility of Criminal Evidence in the Digital Age**
- 11:45 - 13:00 **Blockchain and Smart Contracts**
- 15:00 - 16:15 **Principles for a Data Economy**
- 16:30 - 17:45 **Access to Digital Assets**
- 19:45 - 21:00 **ELI-UNIDROIT European Model Rules of Civil Procedure**
- 21:00 - 21:30 Insolvency Law Book Launch

FRIDAY | 11 SEPTEMBER

- 09:00 - 10:15 **Business and Human Rights - Access to Justice and Effective Remedies**
- 10:30 - 11:30 **Independence of Judiciary**
- 11:45 - 12:45 **Fundamental Constitutional Principles**
- 14:00 - 15:00 **The Concept and the Role of Courts in Family and Succession Matters**
- 15:15 - 16:15 **EU Conflict of Laws for Companies**
- 17:30 - 18:30 **Corporate Sustainability, Financial Accounting and Share Capital**
- 18:30 - 19:15 ELI Young Lawyers Award
- 19:15 - 19:30 SIG and Hub Awards



ELI Webinar Series

At the end of April ELI launched a series of webinars in response to the COVID-19 crisis. The fortnightly webinars, five of which have already taken place, largely focus on the legal implications of the Coronavirus pandemic.

The first webinar saw members of the ELI's Executive Committee discuss the ELI Principles for the COVID-19 Crisis as a whole, with subsequent webinars providing more detailed analysis of individual principles. ELI Members are able to watch the discussions live and interact with the panellists in a Q&A session at the end of each discussion.

Recorded videos of the webinars are available to all on the [ELI website](#). The first webinar was reported on in the previous newsletter, click [here](#) to access a recording of the discussions. Details of the webinars two to five are provided below.

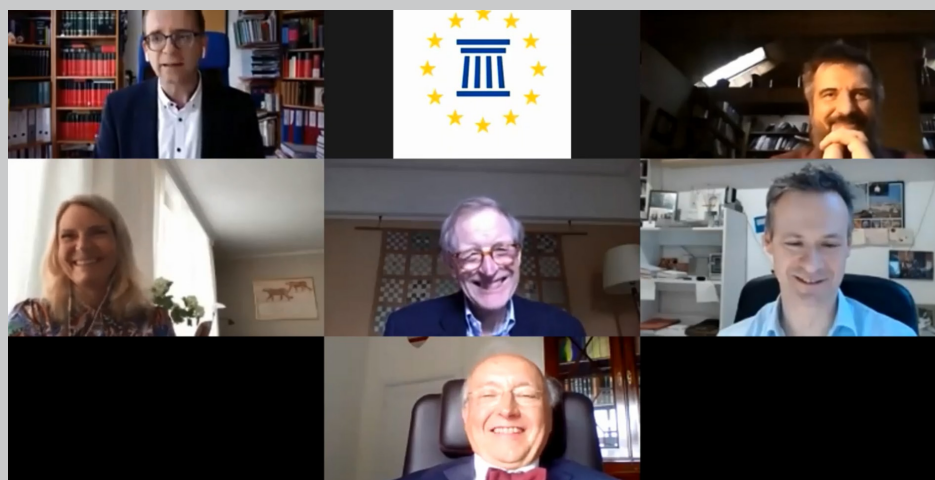
On 7 May 2020 the topic of [Application of Hardship and Force Majeure](#) across Europe was addressed. **Pascal Pichonnaz** (Chair), **Hugh Beale QC**,

Denis Philippe, **Christina Ramberg**, **Pietro Sirena** and **Fryderyk Zoll** discussed the application of hardship and force majeure from the French, Italian, German/Polish, Scandinavian (particularly Swedish) and the common law (mainly English) perspectives. Principle 13 (on Hardship and Force Majeure) of the recently approved ELI Principles for the COVID-19 Crisis was also given due consideration. During the discussion with participants, speakers addressed, among other things, issues such as contractual exclusion of hardship rules, termination and renegotiation of contracts, and consumer protection.

A week later, on 21 May 2020, the spotlight was on [Insolvency and Collection Proceedings Post-COVID-19](#). Principle 12 of the ELI Principles for the COVID-

19 Crisis, which addresses the desirability of a moratorium on regular payments, formed the basis of the webinar. **Anne Birgitte Gammeljord**, **Denis Philippe**, **Walter Stoffel** and **Jos Uitdehaag** discussed insolvency and collection proceedings after COVID-19 from their national, global and, in the case of Jos Uitdehaag, institutional perspectives. They touched upon issues such as measures taken to avoid bankruptcy, the restructuring procedure, limitations on debt collection and the enforcement of civil court decisions as well as temporary moratoriums (suspensions) of insolvency proceedings.

Their presentations were followed by a Q&A session with ELI Members, during which the termination of contracts during a stay (of proceedings),



Application of Harship and Force Majeure Webinar:

Top Left: Pascal Pichonnaz
 ELI 2nd Vice President, University of Fribourg
 Top Right: Fryderyk Zoll
 ELI Executive Committee, University of Cracow,
 University of Osnabrück
 Middle Left: Christina Ramberg
 Stockholm University
 Middle Centre: Hugh Beale QC
 University of Warwick
 Middle Right: Pietro Sirena
 ELI Executive Committee, Bocconi University
 Bottom Centre: Denis Philippe
 ELI Treasurer, Philippe & Partners

Insolvency and Collection Proceedings Post COVID-19 Webinar:

Top Left: Walter Stoffel
 University of Fribourg
 Top Right: Jos Uitdehaag
 Enforcement Agent, UIHJ Dutch Secretary
 Bottom Left: Denis Philippe
 ELI Treasurer, Philippe & Partners
 Bottom Right: Anne Brigitte Gammeljord
 ELI Executive Committee, Danish Supreme Court





Back to Normal: Checks and Balances (Legislator/Judiciary) Webinar:

Top Left: Anne Birgitte Gammeljord
ELI Executive Committee, Danish Supreme Court
 Top Right: Bruno Lasserre
ELI Senate; Vice-President of the Conseil d'État
 Bottom Left: Lord John Thomas
ELI 1st Vice President, former Lord Chief Justice of England and Wales
 Bottom Right: Ole Böger
Judge, Higher Regional Court in Bremen

liability of board members and directors and the (lack of) measures regarding transnational insolvency of European companies by the EU, among other issues, were addressed.

The next webinar, on 4 June 2020 was held under the title '[Back to Normal: Checks and Balances \(Legislator/Judiciary\)](#)'. The discussion was mainly based on Principles 3 (Democracy), 4 (Lawmaking), 5 (Justice System) and 15 (Return to Normality).

Lord John Thomas, Ole Böger, Anne Birgitte Gammeljord and Bruno Lasserre presented the Danish, French, German and British perspectives on issues such as courts' responses to the crisis, including court hearing arrangements, the use of different technological and procedural tools and the role of courts in upholding democratic principles and controlling executive lawmaking during and after the crisis. The outlook for the future, including how to manage backlogs, was also discussed.

In the Q&A session that followed, lessons learned by courts as a result of the COVID-19 crisis, the question of whether certain types of cases will need to be prioritised over others and if so whether the solution to this is more judges, accelerated or extra-judicial measures, the role of technological advancements in drafting/amending wills in future without the need for physical attestation before a notary, witness, etc, and the possibility of a unified digital strategy in the EU were addressed.

The final webinar in the series so far was on 18 June 2020 and addressed [Rule of Law During and Post COVID-19](#). Principles 5 (Justice System) and 15 (Return to Normality), formed the basis of the discussion. **Bénédicte Fauvarque-Cosson, Lord Jonathan Mance, Andreas Stöckli, Leah Wortham, Michał Ziółkowski and Fryderyk Zoll** discussed the French, Polish, Swiss and UK perspectives on the rule of law during and after the crisis. Among other things, the func-

tioning of justice systems and parliaments during the crisis and their return to normality as well as the issue of judicial independence and the EU's role in securing it were addressed. The challenges in Eastern Europe and Western jurisdictions were also discussed.

During the closing Q&A session questions arose as to whether the COVID-19 crisis will impact the rule of law (fundamentally) in the longer-term and on the role of courts and lawyers in upholding the rule of law.

Keep an eye on the [ELI website](#) for details of the next webinar and click [here](#) to access recordings of the first five webinars.

Rule of Law During and Post COVID-19 Webinar:

Top Left: Fryderyk Zoll
ELI Executive Committee, University of Cracow, University of Osnabrück
 Top Right: Bénédicte Fauvarque-Cosson
Judge, Conseil d'Etat
 Middle Left: Andreas Stöckli
University of Fribourg
 Middle Centre: Michał Ziółkowski
Kozminski University
 Middle Right: Lord Jonathan Mance
Former Deputy President of the Supreme Court of the United Kingdom
 Bottom Centre: Leah Wortham
The Catholic University of America



Council of Europe Contribution to Artificial Intelligence Governance

2020 has been quite efficient in exposing a number of vulnerabilities to the fabric of our societies, and prompting a re-examination of commitments to the existing standards on human rights and fundamental freedoms in a number of areas.

Artificial intelligence (AI) technology and its capabilities in large-scale data processing have been used in everything from the observation and prediction of epidemic dynamics, diagnostics, the search for a cure and treatment options, knowledge sharing and structuring to population classification and control. Countries have used various, often differing approaches, whose effectiveness and impact on human rights have varied considerably. Facial recognition and contact tracing have shone light on some of the perils. These can develop either from a misunderstanding of the technologies' capabilities, thus providing false hope and/or waste of resources, or from its misuse, opening the door to more severe violations and the development of authoritarian or surveillance societies.

What did become clear is that AI is not a magic bullet, but merely a tool to be



used by humans. The quick, fragmented, and often unilateral implementation of applications has reaffirmed the importance of one of the driving reasons for establishing the Council of Europe's Ad Hoc Committee on AI (CAHAI) – the urgent need to ensure a high level of protection for individuals and greater legal certainty for the entire chain of suppliers developing AI applications.

In 2019, CAHAI was mandated by the 47 member states of the Council

of Europe (CoE) to examine the feasibility and potential elements of a legal framework for the design, development and application of AI, based on CoE standards in the field of human rights, democracy and the rule of law. CAHAI's activity within the CoE is horizontal and non-specialised: it examines the common denominators for multiple AI applications, and draws on work carried out in the specialised sectors of the CoE (data protection, freedom of expression, justice, biomedicine, penal co-



Council of Europe's Ad Hoc Committee on Artificial Intelligence (CAHAI)

operation, audiovisual, culture, children, education, democracy, etc.).

It provides an important forum for sharing information among member states, participants and observers to equip them with the necessary decision-making elements for the development of a specific international legal framework, and has a mandate of expertise to propose the concrete elements of potential legal instruments in line with CoE values and standards. In addition to expert input from member states' delegates, CAHAI is implementing broad multi-stakeholder consultations, involving scientific actors, academia, business community and civil society. We are particularly attentive to fostering synergies with other international organisations and initiatives, such as UNESCO, the OECD, and the EU, as it is important to prevent the duplication of efforts (and potential divergence) and to utilise to the greatest extent possible the common elements in our respective areas of competence.

The legal instruments developed by the CoE in the field of technology have already demonstrated their capacity to reconcile the protection and promotion of human rights with innovation (eg Convention 108, which largely inspired the GDPR, the Budapest Convention on Cybercrime, or the Oviedo Convention on Human Rights and Biomedicine). A compelling parallel can be seen over half a century ago in the development of regulatory mechanisms for medical products and procedures, technologies holding similarly great promises, while also

'The legal instruments developed by the CoE in the field of technology have already demonstrated their capacity to reconcile the protection and promotion of human rights with innovation.'

Gregor Strojín

posing risks to public health. The Convention on the Elaboration of a European Pharmacopoeia, developed by the CoE in 1964, established a still functional and reliable mechanism for the development of binding standards for the quality of medicines and their certification.

A framework aimed at preventing negative impacts seems similarly necessary with regard to AI technologies, which currently all too often lack transparency of means, purpose, and effect. Their complexity and opacity lead to legitimate concerns, and independent oversight and verification mechanisms for certain types of use offer one possible solution. Many of the debates in the past have focused on the ethical aspects, and have provided hundreds of non-binding documents. The current absence of binding standards is not only problematic due to the acute potential for large scale and lasting human rights abuses, but also due to the lack of clarity and certainty, which inhibit investments and further innovation in positive directions.

At the first plenary meeting in November 2019, the CAHAI members provided clear guidance as to the scope of the feasibility study. A mapping of the existing provisions applicable to AI, both binding and non-binding, has since been carried out in order to identify both good practices and possible gaps in existing regulations. A further analysis of the risks and opportunities associated with the development of AI, including its impact on human rights, democracy and the rule of law, has also been prepared.

The second plenary will be held in July 2020, and is expected to intensify our work on the key issues by creating specialised working groups. The precise form and content of the potential legal instruments is to be discussed by the members during in the following months.

Solutions could range from a convention with direct effects for the states ratifying it, an open framework convention, to less binding forms such as recommendations for action. As CAHAI's mandate expires at the end

of 2021, we wish to bring together the elements for a decision on this matter as soon as possible and to present the first conclusions in early 2021.



The Author

Gregor Strojín is the elected Chair of the [Ad Hoc Committee on Artificial Intelligence](#) (CAHAI) at the Council of Europe. He is a Slovenian jurist specialised in the intersection of law, technology and information. He has advised on transformation challenges of various judiciaries, is a member of CEPEJ-CYBERJUST, and also served as a State Secretary at the Ministry of Justice of Slovenia.



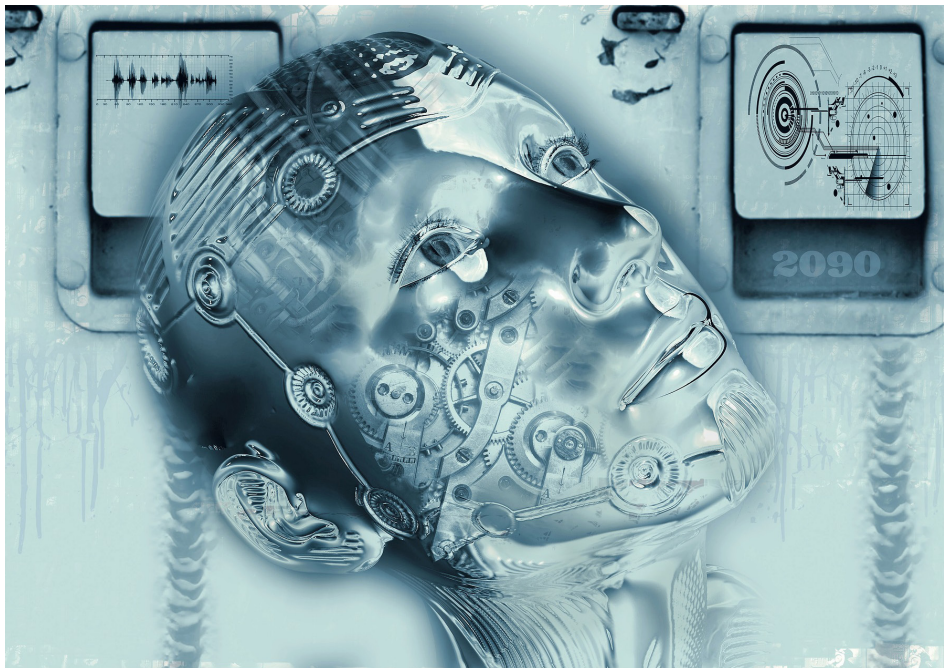
Project Adopted: Model Rules on Artificial Intelligence and Public Administration

In a Decision of 7 May 2020 the Council adopted a new ELI Project entitled 'Artificial Intelligence (AI) and Public Administration – Developing Impact Assessments and Public Participation for Digital Democracy'. This decision followed a Feasibility Study on the scope and focus of the project.

The project, which aims to be completed in December 2021, will take the form of model rules and aims to suggest procedures on AI that, while not hindering innovation, will improve citizens' confidence in the use of the technology through solid safeguards. These model rules could serve as inspiration to national as well as EU legislators but also governments and administrations. The Project Reporters are Marc Clément, Paul Craig and Jens-Peter

Schneider. They will be guided by Chair Marek Wierzbowski and work closely with a further six members of the project team - Jonathan Dollinger, Franz Merli, Daniel Le Métayer, Olivia Tambou, Karolina Wojciechowska and Katarzyna Ziółkowska. An Advisory Committee of experts as well as a Members Consultative Committee (MCC), which is open to all ELI Fellows, will provide feedback on the work of the Project Team at key intervals. After a series of meetings to prepare

the feasibility study, the Project Team met again remotely on 26 May 2020. During this, the first meeting of the project proper, they discussed the general structure of the model rules and existing standards of impact assessments, including relevant EU documents in the field of AI, the General Data Protection Regulation (GDPR) as well as initiatives in Canada, Germany and the UK.



'It is a pleasure to work in such a dynamic Project Team: although the project officially started only in May this year, we have already had several Project Team meetings. We are grateful for the strong support received from the Secretariat.'

Marc Clément
Project Reporter

Join the AI Members Consultative Committee (MCC)

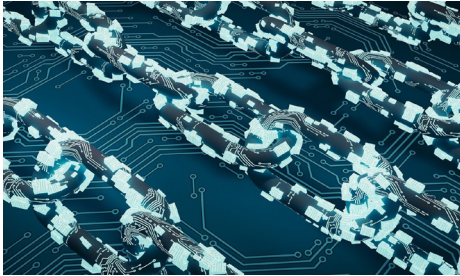
ELI Fellows are invited to join the MCC for the [Model Rules on Artificial Intelligence and Public Administration](#). MCC members are invited to comment on preliminary project results and usually hold a physical meeting on the occasion of the annual Projects Conference. Any ELI Member, Individual or Institutional, Fellow or Observer, can join the MCC by sending an [e-mail](#) to the ELI Secretariat.

Read a full description of the Project on the [ELI Website](#).



Blockchain Technology and Smart Contracts Project Team Meets Remotely

On 10 June the Blockchain Technology and Smart Contracts Project Team members and Assessors convened remotely to discuss developments in the project.



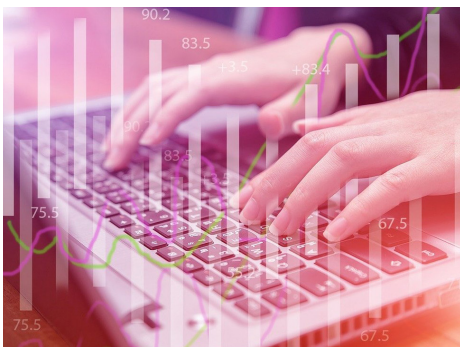
After a series of exploratory meetings that took place last year, the Team is now working on an output that will address legal issues pertaining to blockchain technology and smart contracts. In the meeting on 10 June 2020 the discussion focused on the technical and legal definitions that would form the basis for the final out-

put. The Team will continue their work at the next meeting, which will take place at the beginning of July.

More information about this project is available [here](#).

Access to Digital Assets Project Team Holds Remote Meeting

Members of the Access to Digital Assets Project Team convened remotely on 15 June 2020 and 30 June 2020 to discuss drafting progress.



The discussions on 15 June 2020 focused on Chapters I and III dealing with the purpose, definitions and scope, and categories of digital assets.

On 30 June 2020 the meeting was attended by the Project Team members, María Curto (Spanish Land Registrars) and Maria Vilar Badia (European Commission) as well as the project's Assessors Reiner Schulze, Christiane

Wendehorst and Aneta Wiewiórowska-Domagalska. The participants focused on providing feedback on the revised draft Chapters on Applicable Law and Voluntary Transfers: Inter Vivos or by Succession, which were prepared by smaller Working Groups ahead of the meeting.

More information about the project is available [here](#).

Business and Human Rights Project Team Continues Discussions on Draft Chapters

On 26 June 2020, the Business and Human Rights Project Team met again remotely to discuss the advancement of the drafting.



The discussion focused in particular on the Chapters dealing with Human Rights Due Diligence and Monitoring and Enforcement Mechanisms. The Team also discussed work by the EU Agency for Fundamental Rights (FRA), the possible involvement of the project's Advisory Committee and Mem-

bers Consultative Committee and the organisation of a webinar on Business and Human Rights during the online ELI Annual Conference and Meetings 2020.

More information about the project is available [here](#).

ALI-ELI Principles for a Data Economy: Discussions with the European Commission Meeting with Advisors and MCC

Two important advances in the joint ALI-ELI Principles for a Data Economy Project took place this month: a meeting with experts at the European Commission and a consultation with members of the Project's Advisory Committee (AC) and Members Consultative Committee (MCC).



Following the submission of the ELI's response to the public consultation on the data strategy of the European Commission, ELI President Christiane Wendehorst and Vice-Presidents, Lord John Thomas and Pascal Pichonnaz, (who also sits on the Advisory Committee of the Project) were invited to discuss the Principles, specifically the approach to data transactions and co-generated data, with experts at the Commission.

Representing the Commission at the meeting on 9 June 2020 were Yvo Volman, Head of the Data Policy and Innovation Unit, Team Leader Malte Beyer-Katzenberger, Legal and Policy Officer Jirka Pilar and Legal and Policy Officer Andrea Tóth. An in-depth discussion was had about how the Principles could contribute to the further development of the European data strategy and a possible Data Act 2021. A particular focus of the discussion was on rights in 'co-generated data',

an innovative concept developed by the project Reporters that is gaining more and more recognition, and on data pools, data trusts and data marketplaces.

On 22 June 2020 the Project Chairs, Lord John Thomas and Steve O'Weise and Project Reporters, Christiane Wendehorst and Neil Cohen met remotely with the members of the ELI Advisory Committee and the Members Consultative Committee to discuss the further development of the ALI-ELI Principles for a Data Economy.

After the Council of the American Law Institute (ALI) had approved parts of the Principles in January, the draft containing these Principles (Tentative Draft No 1) would have been due for discussion at the ALI Annual Meeting in May in San Francisco. Unfortunately, the Covid-19 pandemic led to the cancellation of the meeting, which is why the Principles will be presented

to the ALI Members at the ALI Annual Conference in 2021.

Tentative Draft No 1 has now also been discussed with the ELI Advisory Committee and the MCC. The main focus of the meeting was, however, on the Principles still to be drafted by the Reporters, such as the Principles on data pooling, data processing arrangements, data trusts, data marketplaces or data rights beyond rights in co-generated data. These questions led to a lively discussion among the more than twenty participants. The valuable guidance received at the meeting will prove to be immensely helpful to the Reporters when continuing their work on Preliminary Draft No 4.

For more information on the ALI-ELI Principles for a Data Economy, please click [here](#). If you are interested in joining the MCC for this project, please [email](#) the ELI Secretariat.



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Meeting with EU Commissioner for Justice

On 26 June 2020 a meeting was held remotely between ELI President Christiane Wendehorst and Vice-Presidents Lord John Thomas and Pascal Pichonnaz and EU Commissioner for Justice Didier Reynders and members of his cabinet.



Since the ELI was founded ten years ago, the Institute has always appreciated its close and supportive relationship with the European Commission, in particular its Directorate-General for Justice.

As meetings had to be postponed in light of the COVID-19 crisis this was the first time that ELI representatives have been able to speak to Commissioner Reynders, who assumed his position in December 2019.

The meeting provided an opportunity to take stock of the ways in which the ELI and the Department for Justice have collaborated during the past decade and reflect on ways to build on this in the future.

Several topics were discussed, with a clear focus on the upcoming first

‘Annual Rule of Law Report’, and how ELI, as an organisation representing the European legal community as an important part of civil society in Europe, can contribute to strengthening the Rule of Law in Europe.

The meeting also provided an opportunity to invite Commissioner Reynders to deliver a keynote address during the opening evening of this year’s online Annual Conference, an invitation which he graciously accepted.

Commissioner Reynders’ keynote speech is provisionally scheduled to take place at 17:00 on Wednesday 9 September.



Meeting with Vice-President Věra Jourová

On 30 June 2020 ELI President Christiane Wendehorst and ELI Vice-Presidents Lord John Thomas and Pascal Pichonnaz had a video call with European Commission's Vice-President Věra Jourová.

The meeting focused on the topic of the rule of law and other fundamental values that form the basis of the European integration. Several initiatives of the European Commission in this area were discussed, in particular the Rule of Law Annual Report, the European Democracy Action Plan and the Renewed Strategy on the EU Charter of Fundamental Rights. Possibilities for the ELI to support these initiatives were explored. The discussion was a follow up on the exchange between Vice-President Jourová and ELI President and Vices on the ELI Principles for the COVID-19 Crisis, which were elaborated by ELI and are available [here](#).



Meeting with Austrian Minister for Justice Alma Zadić

On 1 July 2020 ELI President Christiane Wendehorst held a remote meeting with the Austrian Minister for Justice, Alma Zadić.



The meeting provided a valuable opportunity to present the history, aims and work of ELI to Minister Zadić, who took office as Austrian Minister of Justice in January 2020.

Minister Zadić expressed enthusiasm for the work of the ELI and was pleased to accept an invitation to speak at the opening evening of this year's online Annual Conference this September.

She also confirmed the willingness of the Austrian Ministry of Justice to be involved in the ELI's decennial anniversary celebrations which will take place next year, remarking on the great potential for the occasion to bring together a vast network of legal experts from all over Europe.

While discussing ELI's substantive work on projects, President Wendehorst highlighted the ELI's three current areas of focus: Rule of Law in the 21st Century, Law and Governance for the Digital Age, and Sustainable Life and Society.

To the possibility of the Institute exploring specific topics in the last of these three categories Minister Zadić reacted very positively and lent particular encouragement, reiterating that the Ministry of Justice is keen to maintain its ties to the ELI and is willing to be a supportive partner whenever possible.

Meeting with Head of the European Parliament Liaison Office in Austria

On 23 June 2020 ELI President Christiane Wendehorst and ELI Interim Secretary-General Bea Verschraegen held an online meeting with Frank Piplat, Head of the European Parliament Liaison office in Austria.

During the discussion, the ELI representatives were able to update Mr Piplat on the current activities of the ELI, especially its most recent publications. The European Parliament has been an Institutional Observer of the ELI since the Institute was founded in 2011

and as the ELI Secretariat is currently hosted by the University of Vienna, an especially close link has developed between the European Parliament's Austrian Liaison office and the ELI. Several ELI events, including the launch of the Austrian Hub, have

taken place in the 'Haus der Europäische Union' which houses the Liaison Office. The ELI representatives and Mr Piplat confirmed their strong intention to maintain and build on these close links in the future.

Meeting with ELSA Representatives

On 24 June 2020 ELI President Christiane Wendehorst and Interim Secretary-General Bea Verschraegen met with outgoing President of the European Law Schools Association (ELSA), Diomidis Afentoulis, and the incoming President for ELSA Austria Deni Peeva.

During the meeting the ELI President and Interim Secretary-General were interested to discuss, inter alia, ELSA's plans for the new year, especially relating to the Rule of Law campaigns, AI-related initiatives and the participation of ELI in many established projects. One of the many recent col-

laborations between the ELI and ELSA also occurred this month as Council Member Mark Clough lent his expertise as a judge at the Human Rights Moot Court Competition organised annually by ELSA International, see below for details.



The European Law Students' Association
AUSTRIA

ELI Council Member Judges Virtual Moot

Mark Clough QC, longstanding member of the ELI Council and Project Leader of the ELI's project on Collective Redress and Competition Damages Claims (2014) represented the ELI this June as a judge at the 8th European Human Rights Moot Court Competition (EHRMCC).



Organised annually by the European Law Students' Association (ELSA) and the Council of Europe, the EHRMCC provides an opportunity for student teams from universities across Europe to closely grapple with the principles of the European Convention on Human Rights and gain the invaluable practical

experience that mooting in an international setting offers. Mr Clough acted as a judge during the final stage of the competition, the Final Oral Round, which sees the 18 surviving teams pleading before expert panels. This stage would ordinarily have been held at the Council of Europe and the

European Court of Human Rights in Strasbourg, France, but was this year conducted remotely using video conference. This year's competition was won by a team from the University of Latvia - congratulations to the winners Lelde Elīna Liepiņa, Samanta Lidere, Kristiāna Pētersone and Natālija Knipše.

ELI Welcomes its New Members

ELI is pleased to welcome the following individuals and institutions whose membership applications were approved by the ELI Council recently.

Individual Members

- Arvind Babajee
- Uliano Conti
- Timothy Dodsworth
- Matteo Ferrari
- Carlos Fidalgo Gallardo
- Clemence Garcia
- Angelo Golia (Jr)
- Nicole Grmelová
- Pablo Guedon
- Oksana HolovkoHavrysheva
- Thomas Lundmark
- Moya Marti
- Svitlana Mazepa
- Jonathan McGowan
- Stefano Delle Monache
- Katerina Pantazatou
- Elisabet González Pons

SUSTAINING MEMBERS

The following members have joined as, or changed their membership to that of Sustaining Members:

Cristian Bitea
J. Bronagh O’Hanlon
Maarten Meijer

Institutional Member: BITRI & BAKIU



BITRI & BAKIU is an innovative and flexible law firm, focusing on delivering quick and reliable legal advisory and representation services to our Clients. We tailor our services to the specific requirements of the Client and provide comprehensive and to the point advice.

The attorneys at BITRI & BAKIU have extensive experience in public administration, judicial bodies and various projects. One of our attorneys

worked for several years as Legal Adviser at the Constitutional Court of Albania, Supreme Court, as well as Legal Expert in the General Directorate for Codification in the Ministry of Justice. Lately she has been appointed as Legal Advisor to the Minister of State for Innovation and Public Administration, in charge of the reform of public services.

With extensive experience in civil and corporate law, labour law, as well as public and administrative law, we can address all the needs of commercial companies. Our attorneys are specialized in all aspects of intellectual and industrial property protection in Albania, including patent, trademark and industrial design prosecution and

maintenance, along with representation before the Albanian courts and other government and administrative bodies in relation to intellectual and industrial property issues.

We at BITRI & BAKIU understand the importance of the insurance sector and one of our attorneys is specialized in this field, with extensive experience in drafting laws and bylaws in the field of Public, Commercial and Civil Law and more specifically in the field of Civil Law, by participating in drafting the amendments to legal and regulatory framework in the field of insurance and specifically, Law no. 52/2014 ‘On insurance and reinsurance’, Law no. 10079/2009 ‘On compensatory insurance in transport sector’.

Join a Members Consultative Committee (MCC)

MCC members comment on preliminary project results that have been submitted. Any ELI Member, Individual or Institutional, Fellow or Observer, can join the following MCCs by sending an [e-mail](#) to the ELI Secretariat:

- [Common Constitutional Traditions in Europe](#)
- [Blockchain Technology and Smart Contracts](#)
- [Access to Digital Assets](#)
- [Business & Human Rights](#)
- [Artificial Intelligence and Public Administration](#)



Successful Remote Gathering of the ELI Spanish Hub

The 5th Annual Meeting of the Spanish Hub on European Case Law took place online on 15 May 2020 and gathered around 400 participants.



special grant for Hub and SIG funding. The event was organised by Dr Albert Ruda (Dean of Law School, Girona University and Co-Chair of ELI's Spanish Hub), Dr Carmen Jerez (Autonomous University of Madrid and Co-Chair of ELI's Spanish Hub) as well as Dr Maria Kubica (Loyola University, Seville).

The meeting was made possible with the support of the Law Schools of the University of Girona, the Autonomous University of Madrid and the University of Loyola, as well as Sepin, Spanish Land Registrars (Colegio de Registradores de España), and Cuatrecasas.

The final programme of the event is available [here](#). Some of the webinars were recorded and will be posted on the [ELI website](#) soon.

The meeting focused on the impact of European case law on internal law and courts practice. It was followed by up to 20 webinars with roundtables on specific areas of the law including digital law, IP law, antitrust law, company law, labour law, contracts, family law, torts, criminal and civil procedural law, international private law, public law, immigration, tax law, constitutional law and criminal law.

Keynote speeches were delivered by Mr Joaquin Huelin (former judge of the Spanish Supreme Court and currently a lawyer and partner at Cuatrecasas), Prof Dr Juan Damian

(Full Professor of Civil Procedural Law and Dean of the Law School of the Autonomous University of Madrid), as well as Dr Alfonso Egea (Assistant Professor at the same university).

A total of 123 papers were presented and discussed during the event. Some of the webinars were attended by more than 50 persons. Attendees were mostly from Spain but also from Colombia, Mexico, Brazil, Chile, Italy, Croatia and the UK. Papers will be published as an e-book by Sepin, a major legal publisher in Spain, in part under the auspices of the EU's Justice Programme (2014–2020) and ELI's

'I would like to invite other Hubs to cooperate in this project, and explore the possibility of running several events in parallel!'

Carmen Jerez Delgado

'We are extremely happy that the event was a terrific success. Since Spain was hit rather hard by the Corona outbreak we were of course worried that we would be forced by the circumstances to postpone it or even cancel it straight away. That we could held the meeting was possible through the collaboration of many people only and most of all thanks to the support from the ELI, for which we remain very much indebted.'

Albert Ruda

ELI Digital Law Lunch Talks

The [ELI Digital Law SIG](#) continued its Digital Lunch Talk series with two further talks providing new insights on how the COVID-19 crisis impacts corporate law and the current debate about platform regulation.

On 28 May 2020 SIG Chairs Christoph Busch and Alberto De Franceschi welcomed Professor Florian Möslein from Marburg University, Germany, for a talk on 'Virtual Shareholder Meetings: Driven by COVID-19 and Blockchain Technology?.'

In his talk, Professor Möslein provided an overview of recent legislation enacted by several EU member states which allows corporations to hold virtual shareholder meetings. In his view, these legislative actions represent an impressive example of a 'bottom-up harmonisation' of member states' regulatory frameworks. Professor Möslein linked these developments with the current debate on the role of blockchain technology in the field of corporate law. He explained how blockchain technology could be used for facilitating identification and legitimation of shareholders or the exercise of shareholder rights.

In the discussion which followed Professor Möslein's talk, the participants agreed that there is a need for further research regarding the potential impact of blockchain technology for facilitating virtual shareholder meetings. This could be an interesting topic to be explored in the context of the ELI Digital Law SIG.

In a further lunch talk, held on 11 June 2020, Professors Christoph Busch, Gerhard Dannemann and Hans Schulte-Nölke, who have been involved as Reporters in the elaboration of the ELI Model Rules on Online Platforms, looked into how digital platforms have reacted to the COVID-19 crisis. For

example, Amazon recently changed its shipping policy and decided to temporarily prioritize 'essential products'. It is a question open for debate if such a differentiated treatment of platform users is justified or could amount to an abuse of dominance under Art. 102(c) TFEU.

It was also discussed whether an abrupt change of shipping policy would be in compliance with the P2B Regulation (EU) 2019/1150. In their talk, the three speakers also provided a very

interesting comparative analysis of how different accommodation platforms such as Airbnb, Booking and HomeAway, reacted to the wave of cancellations caused by the COVID-19 crisis. The examples provided by the speakers sparked a lively discussion among the participants of the lunch talk.

The series of lunch talks will continue over the next few months with further talks on current issues in law and technology. Keep an eye on the [ELI Website](#) for details.



INSTITUTE FOR LAW AND REGULATION OF DIGITALISATION

Virtual Shareholder Meetings: Driven by CoVID19 and Blockchain Technology?

2nd ELI Digital Law Lunch Talk, May 28th 2020

Florian Möslein



6th Münster Colloquium: On EU Law and the Digital Economy

ELI Members may be interested in the next event in the conference series 'Münster Colloquia on EU Law and the Digital Economy', organized by Sebastian Lohsse (University of Münster), Reiner Schulze (University of Münster) and Dirk Staudenmayer (European Commission).

This year's conference will focus on the topic 'Smart Products' and will take place in Münster on 15 and 16 October 2020.

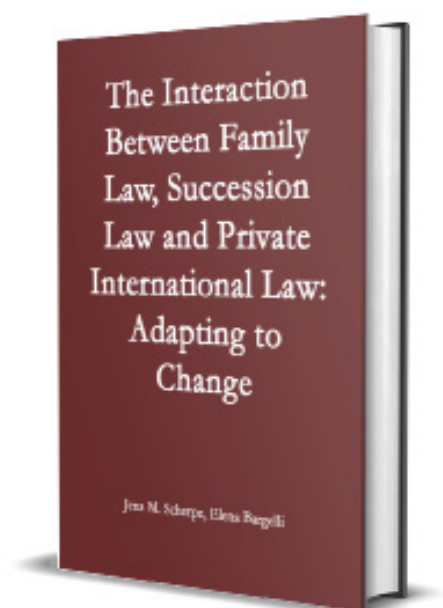
Please [email Carina Farthmann](#) to register or for more information.

Family and Succession Law SIG

Members of the ELI's Special Interest Group (SIG) on [Family and Succession Law](#) have collaborated on a book, due to be published in December 2020 by Intersentia.

The book, co-edited by Elena Bargelli (University of Pisa, ELI Council Member, Chair of the Family and Succession Law SIG) and Jens M. Scherpe (University of Cambridge, ELI Council Member and member of the Family and Succession Law SIG, Director of the Cambridge Family Law Centre) is entitled 'The Interaction Between Family Law, Succession Law and Private International Law: Adapting to Change'. The idea for the book was conceived at a workshop entitled 'The Present and the Future of European Family and Succession Law' which took place on 7 June 2018 at the University of Pisa as event organized by the ELI's Family and Succession Law SIG.

The book brings together a range of views on the reciprocal influences of substantive and private international law in the fields of family and succession law. It outlines some key elements of this interplay in selected jurisdictions and selected issues, and provides a basis for discussion and future work on the reciprocal influences of domestic and European law. The aim of the book is to provide a basis for further study, and to facilitate a more open debate between European institutions and national stakeholders when future Private International Law instruments are being considered or drafted.



Call for Interest: Food and Farm Law SIG

Proposal to set up an ELI 'Food and Farm Law' SIG



The next decade will witness massive changes in the way food is produced and consumed. Change is being forced on us by the need to make the food chain sustainable while guaranteeing food security for all Europeans in the European Union and in wider Europe. The Common Agricultural Policy (CAP) is the heartland of the original European Economic Community; food policy has boomed since the 1990s. Now food and farm policies are fundamentally challenged by the need to match the United Nations sustainability goals and the European Union's 'Green Deal' policy. The Commission's Farm to Fork strategy published 20 May 2020 shows the way

forward. These factors alone make it worthwhile to make space for food and farm law in ELI's spectrum of activities. The SIG's initiator, Jens Karsten, believes that the SIG could contribute to the 2020–2022 'Conference on the Future of Europe' (now scheduled to start operating September 2020) by looking at the basis in primary law of both the CAP and food policy. The law of the Treaties may need to evolve in order to match current needs, for instance, where ownership and acquisition of agricultural land is concerned and conventional views of the free movement of capital clash with more communal views of arable lands as communal commodities. The SIG could put down a marker by working towards a position paper to be finalised early 2021. The initiator also believes that a close look at the rules on intellectual property in the agro-food chain is warranted (patents on life, breeders' rights, trade secrets, geographical indications as well as ownership of data). Eventually, the private law relationships in the food chain could become the focus

of closer examination. Either could become the topic of work directed at elaborating model rules. The subjects potentially covered by the SIG run along four strands: food constitutional law, property and lease of means of primary production, intellectual property in the agro-food chain, and food private law. While each of these topics include potentially large areas of law, the SIG will concentrate on where its work could be of the most immediate relevance for European legislators.

Considering that food and farm law is a completely new area for ELI, the initiator hopes that it will attract new members with relevant expertise (namely rural law) as well as existing members with special knowledge on constitutional and intellectual property law. Members from Eastern European countries (EU and non-EU) are in particular welcome.

ELI Members interested in joining this SIG are kindly requested to contact the [ELI Secretariat](#).

Meetings and Events Calendar At-A-Glance

Below is a list of upcoming ELI meetings and events. Please save the dates and stay updated by following our [website](#) or social media channels for more details

July 2020

- 18–20 July
ELI Business and Financial Law SIG at the SASE Research Network's Annual Conference
Online

September 2020

- 8 September
Executive Committee Meeting and Executive Committee-Senate Working Dinner
Online
- 8–9 September
Council Meeting
Online
- 8–11 September
ELI Annual Conference
Online

November 2020

- 12–13 November
Fifth Spanish-German Hub Meeting on Private Law (organised by ELI's Spanish and German Hubs)
Location tbc
- 12–13 November
Conference on Environmental Sustainability and 'European Green Deal': Values, Innovation and Regulation (organised by ELI's Environmental Law SIG)
Ferrara



European Law Institute

- Pan-European, democratic, membership-based organisation
- Uniting prominent jurists of all legal professions
- Aiming to improve the law in Europe
- Carrying out projects with immediate practical application

Members of ELI can contribute to its projects and gain access to an international network of jurists. Apart from other activities, ELI organises its Annual Conference and Meetings, bringing together Europe's leading experts in diverse fields of law.

Executive Committee

President:	Christiane Wendehorst
First Vice-President:	Lord John Thomas
Second Vice-President:	Pascal Pichonnaz
Treasurer:	Denis Philippe
Other Members:	Anne Birgitte Gammeljord Pietro Sirena Fryderyk Zoll

2020 ELI Conference

The 2020 ELI Annual Conference will take place from **8–11 September** online. Please take note of this date.

We look forward to seeing you there!

ELI in Vienna

The Secretariat of ELI, which is hosted by the University of Vienna, is located in the heart of the Austrian capital, close to the main building of the University, the representation of the European Commission in Austria as well as the information office of the European Parliament.

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



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