



**ELI**  
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# Newsletter

Issue 3: May–June 2021

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### Cover Letter on R&D Tax Incentives by Paul Tang, Member of the European Parliament

Information spreads in our globalised and digital age faster than ever before. As a result, technological advances benefit more people more quickly, while it may be hard to capture private gains from one's innovation.

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### Imprint

Media Owner & Editor:  
European Law Institute (ELI)  
Schottenring 16/175  
1010 Vienna, Austria

# ELI Decennial Celebration

**'Tossed by the Waves, But Protected by Poseidon:**

**The European Law Institute Turns Ten'**

**A contribution by Reinhard Zimmermann**

Ninety-nine years ago, in May 1922, a 'Committee on the Establishment of a Permanent Organization for the Improvement of the Law' was founded in the United States. It was led by three persons, among them Elihu Root, a former Secretary of State, and William Draper Lewis, a former Dean of the University of Pennsylvania Law School. The Commission produced a report, on the basis of which the American Law Institute was established in February 1923 with Draper Lewis as founding director. It will, therefore, soon celebrate its 100th anniversary.

We are celebrating today another, more humble anniversary: the inauguration of the European Law Institute exactly ten years ago.

The European Law Institute is an independent non-profit organisation designed to study and stimulate the European legal development in a global context. Its mission is the quest for better law-making and the enhancement of the European legal integration. That certainly resonates with the aims of the American Law Institute which were 'to promote the clarification and simplification of the law and its better adaptation to the social needs, to secure the better administration of justice, and to encourage and carry on scholarly and scientific legal work'.

The example of the American Law Institute, I think, was always present in the minds of those involved in setting up the European Law Institute. So were, of course, a number of differences concerning the challenges

faced by both institutions – the different national legal traditions and the different languages prevailing in Europe, to mention just two of them.

The tenth anniversary provides an opportunity to look back on how it all started. A number of cities can be mentioned to indicate important milestones on the path towards the European Law Institute: Brussels, Florence, Hamburg, Vienna, Athens, and Paris. The events for which these city names stand took place between October 2008 and June 2011, ie within a remarkably short period of time.

**Brussels** (October 2008) was an important moment in the history of the Association for a European Law Institute (ELIA). That was an organisation initiated by Members of the Joint Network on Common Principles of European Contract Law which had managed to attract, within only a few months, more than three hundred Members. During two meetings in Brussels the aims and types of projects to be carried out by a European Law Institute to be founded by the Association were specified.

In April 2010 a conference took place in **Florence** under the title 'A European Law Institute? Towards Innovation in European Legal Integration'. It was organised by professors from the European University Institute, and the invitees were representatives of a long list of 'networks' active, in one way or another, in the field of European law. The contributions to this conference revealed a widespread agreement that the creation of a European Law Institute would be high-

ly desirable. What was not, however, regarded as highly desirable was the creation of two competing European Law Institutes.

In **Hamburg** in June 2010, therefore, a mediation effort was made to bring these two initiatives, hitherto quite independent of each other, together. As a result of that meeting a joint road-map was indeed agreed upon. If one reads the Hamburg memorandum setting out the details of this road-map today, one is surprised to see how many of the characteristic features of the European Law Institute, as eventually established, were already contained in it: inter alia the principles of independence and comprehensiveness. Also the transparency of the proceedings was important to all participants.

A joint Project Group was subsequently established which met in November 2010 in **Vienna**. At that meeting the purposes and tasks of the European Law Institute were specified and a Founding Committee was set up. In addition, three Working Groups were charged with the preparation of a draft manifesto and a draft statute, with canvassing the types of projects to be embarked upon by the European Law Institute, and with taking care of a number of organisational issues.

The Founding Committee convened in **Athens** in April 2011. The drafts and proposals of the three Working Groups were discussed, and in the course of two long days an agreement was reached to found a European Law Institute as an *Association Internationale Sans But Lucratif* under



Belgian law. There is a picture of the Members of the Founding Committee below the ruins of Poseidon's temple at Cape Sounion on the early evening following that agreement.

Cape Sounion is a place where one is supposed to pray for a safe journey. That journey was to take us to a city whose coat of arms, somewhat implausibly perhaps in view of the location of that city, contains a maritime phrase: *Fluctuat nec mergitur* – it may be tossed by the waves but does not sink. This was **Paris**, where on 1 June 2011 the European Law Institute was officially opened with a splendid Inaugural Congress.

Splendid as that congress was, the European Law Institute at that stage was still a rather modest organisation. It consisted of fifty-two natural persons as founding members and four founding institutional members. We have come a long way since then.

Today, the European Law Institute has more than 1,500 Individual Members and 115 Institutional Members. Fourteen projects have been completed (among them, right at the beginning, a critical examination of the Proposal of a Common European Sales Law and, most recently, the Model Rules of Civil Procedure, in cooperation with UNIDROIT), and thirteen projects are ongoing at the moment (a number of them relating to law and governance for the digital age – a topic also of particular importance on the agenda of the European Commission). To date, the European Law Institute has twelve (country specific) 'Hubs' and eleven topic specific special interest groups ('SIGs'). A Young Lawyers' Award has been established in order to signal the European Law Institute's commitment to the next generation of European lawyers; a book series has been launched with a prominent English publishing house (the first volume dealing with the prevention and resolution of conflicts of jurisdiction in EU criminal law, the second one with rescue of businesses in Europe); co-operations have been established with



The ELI Founding Committee at Cape Sounion



ELI Inaugural Congress



Bénédicte Fauvarque-Cosson and Reinhard Zimmermann at the ELI Inaugural Congress

a number of organisations (among them the American Law Institute); and a regular newsletter plus an annual activity report inform Members of the Institute and the general public about the state of each project and about what else is going on. Annual General Assemblies have been held in Brussels, Zagreb, Ferrara, Riga, and, every second year, in Vienna.

In particular, the European Law Institute has done its best to implement the 'three great diversities' which have featured prominently in every document since the Hamburg Memorandum: The diversity of backgrounds (today the European Law Institute has Members of 62 different nationalities); the diversity of disciplines (just about every area of the law is covered including, on the one hand, philosophy of law and, on the other, specialised disciplines such as medical law or transportation law); and the diversity of professions (while just over half of the Members of the European Law Institute are academics, the number of practising lawyers, judges, regulators, public notaries, and government officials has steadily grown). Thus, for example, the Members of the first Executive Committee came from England, France, Austria, Italy, Greece, Sweden, and Bulgaria, four of those Members being academics, and three of them practitioners (and, to mention another instance of desirable diversity, four of them male and three of them female).

Much more could be said. That all this has been possible is due to the

unstinting efforts of dedicated and enthusiastic persons who have taken an active part in the General Assembly (which is the 'general directional body' of the European Law Institute in terms of the Articles of Association), who have served on the administrative and executive bodies of the Institute, and who have been part of the Project Teams, and of the Advisory Committees and Members' Consultative Committees for the various projects. On behalf of the members of the Senate of the European Law Institute, I would like to thank all those persons very sincerely and to congratulate them on what has been achieved.

The European Law Institute is firmly rooted within the European Union: Italy, Germany, Spain, and Austria are at the top of the 'list of nations', as far as Membership is concerned. But the European Union does not exist in isolation. Nor does European law exist in isolation. The Articles of Association which I have cited above recognise that when they state that the European Law Institute aims at stimulating European legal development 'in a global context'. European law has spread to many parts of the world: Spanish, Italian, and Portuguese law to large parts of Latin America, French law to Quebec, Louisiana, and parts of Africa, German law to Japan and Korea, Dutch law to South Africa, etc.

Also, even after Brexit we should always remember that Great Britain has historically been part of Europe, and part of the European legal tradition. English lawyers have rendered

sterling services to the European Law Institute over the past ten years, and it will be important for lawyers in Europe to continue to draw upon the experiences of the English common law (and of the fascinating mixed legal system of Scotland). Also, the English common law is our bridge to the common laws prevailing elsewhere in the world. It is part of the European Law Institute's mission to keep these links alive even in an adverse political situation.

But the Institute should be in touch with developments all over the world, no matter whether they are part of the civilian or the common law tradition. It is very good, therefore, that we have Members from South Africa and Nigeria, from Iran, Pakistan, and India, from Peru and Columbia, from Russia and the Ukraine, and from so many other places. The European Law Institute will continue to draw its strength from a rich diversity of contacts and of sources. At the same time, it will remain firmly committed to the values inherent in the European tradition, including the civilian systems and the common law, and particularly to the rule of law.

None of us, presumably, will be present when the European Law Institute celebrates its hundredth anniversary. But many of us, I hope, will be there in fifteen years' time when the European Law Institute turns twenty-five. I think that, after what has been achieved in the first ten years, we can look forward with confidence to that event.

## About the Author

Professor Zimmermann is Director at the Max Planck Institute for Comparative and International Private Law in Hamburg. In 1981, he was appointed to the Chair of Roman and Comparative Law at the University of Cape Town. In 1988, he returned to Germany to become Professor of private law, Roman law and comparative legal history at the University of Regensburg. In 2002, he was appointed Director at the Max Planck Institute for Comparative and International Private Law in Hamburg. In addition, in 2008, he joined the Bucerius Law School as Professor in Legal History. He holds honorary doctorates from the Universities of Chicago, Aberdeen, Maastricht, Lund, Edinburgh, Cape Town, Lleida, Stellenbosch, McGill, and Lublin (Catholic University). He has served as Dean in Cape Town and Regensburg and as Chairman of the Humanities Division of the Max Planck Society from 2006–2010. Professor Zimmermann was Chairman of the *Zivilrechtslehrervereinigung* between 2011 und 2015, and he was elected President of the *Studienstiftung des deutschen Volkes*. In 1996 he was awarded the Leibniz-price of the *Deutschen Forschungsgemeinschaft*.





# ELI Decennial Celebration

## 'Building a European Legal Community – 10 Years of ELI's Contribution'

On 1 June 2021, leading legal experts from Europe and beyond gathered to celebrate a decade of the ELI's contribution to the development and improvement of European law. The event enabled reflections on ELI's achievements.

The Decennial Celebration was opened by Christiane Wendehorst (ELI President), and Reinhard Zimmermann (Speaker of the ELI Senate), who reflected on the making of ELI from its humble beginnings with 52 Founding Members to its current ever growing Membership of over 1,600 Individual and Institutional Members. Lance Liebman (former Director of the American Law Institute (ALI)), reminisced about guiding ELI to its establishment and the good working relationship of the ALI and ELI ever since. Please read more about the introduction and welcoming addresses [here](#).

After the opening, attendees heard from Věra Jourová (Vice-President of the European Commission for Values and Transparency), who emphasised the importance of the rule of law, shared values, and fundamental rights in democracies. You can read more about the keynote speech [here](#).

The following first panel discussion on 'Facing the Current Challenges in Europe – the Role of the Institutions and Civil Society' focused on current challenges – from the digital revolution to climate change to political polarisation – for institutions and civil society. Koen Lenaerts (President of the Court of Justice of the European Union (CJEU)), Robert Spano (President of the European Court of Human Rights (ECtHR)), Didier Reynders (European Commissioner for Justice), Adrián Vázquez Lázara (Chair of the European Parliament's Committee on Legal Affairs (JURI)), and Margarete von Galen (President of the Council of Bars and Law Societies of Europe (CCBE)) each presented their point



of view and discussed questions from the attendees in a Q&A session. You can read more about the panel discussion [here](#).

The second panel on 'Faces and Stakeholders behind ELI – Looking Ahead' offered a platform to discuss ELI's history and ideas for strengthening ELI's position and increasing its activities. This panel welcomed some of the faces and stakeholders behind ELI, including Heinz W Engl (Rector, University of Vienna), Bénédicte Fauvarque-Cosson (Judge, French Council of State, *Conseil d'Etat*), Irmgard Griss (Professor of the University of Graz; former President of the Austrian Supreme Court, 2007–2011), Anna Joubin-Bret (Secretary, United Nations Commission on International Trade Law (UNCITRAL)), and Ádám Tóth (President, Council of the Notariats of the European Union (CNUE)), and allowed attendees to hear from them on establishing ELI, goals achieved, and potential future endeavours as well as to engage in discussions in a subsequent Q&A session. Please find more [here](#).





**“** We have a lot of things to do to convince different citizens that the rule of law is not just an abstract concept for some judges and lawyers, but it is very important if you have a conflict with the authorities, with the businesses, or with some other citizens, that you have the capacity to go to an independent, qualified, and efficient judge to defend your position. We need to explain that better and better, but I know that we are doing that together with the European Law Institute and I am sure that we will continue to work on it with the Institute.

**DIDIER REYNDERS**  
European Commissioner for Justice



The Decennial Celebration was supported by:

**The Commission  
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**The European Union**



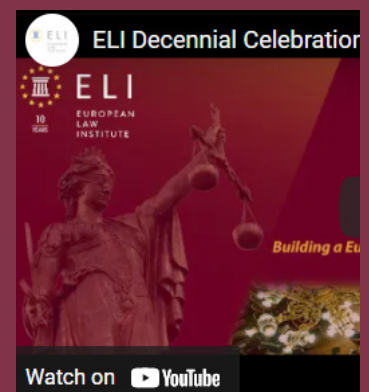
**The University of  
Vienna**



**The European Union  
Youth Orchestra**



ELI would like to thank all speakers and attendees for joining this Decennial Celebration. Gratitude is also due to the supporters of the ELI Decennial Celebration: The University of Vienna, the Commission Representation in Austria, the European Union, and the European Union Youth Orchestra. Lastly, ELI would like to express its thanks to all the Members who were and are working towards ELI's success.



Please click above to watch the ELI Decennial Celebration .





# ELI at 10

**ELI celebrates its 10<sup>th</sup> anniversary in 2021. Over the course of the 2021 issues of this Newsletter, we will display ELI's history, Members, and project milestones to commemorate this occasion. In this issue, you are cordially invited to take a trip down the memory lane with us to 2015 and 2016.**

## February 2015

*'I feel that the ELI has an important role to play in the development of European law, as the discussion of practitioners and academics is essential for us legislators in order to be able to take decisions.'*

– Pavel Svoboda, then Chair of the Committee on Legal Affairs, European Parliament

## February 2015

The ELI Polish Hub was launched.

*'It is our intention to take steps to broaden knowledge of European law among practicing lawyers in Poland and to serve as the communication channel between them and the ELI. We hope to bring more Polish lawyers to the ELI, both as members and as people involved in ELI projects.'*

– Marek Wierzbowski, then ELI Council Member and Polish Hub (Co-) Chair

## February 2015

ELI extended their Cooperation Agreement with the University of Vienna.



## July 2015

ELI published its 'Statement on the European Commission's Proposed Directive on the Supply of Digital Content to Consumers'.

## 2015

The ELI Administrative Law SIG, the Business and Financial Law SIG, the Digital Law SIG, the Dispute Resolution SIG, the Family and Succession Law SIG, the Fundamental Rights Law SIG, the Global Private Law SIG, and the Intellectual Property Law SIG were launched.

## 2016

The ELI Competition Law SIG was launched.

## 9 May 2016

The ELI Spanish Hub was launched.

## 9 September 2016

The ELI Italian Hub was launched.

## 2–4 September 2015

Over 200 participants gathered at the ELI Annual Conference to discuss the achievements of the Institute, its challenges for the future and topical legal issues in diverse fields of law.



## 7–9 September 2016

ELI held its ELI Annual Conference and General Assembly in Ferrara.





# Detention of Asylum Seekers and Irregular Migrants and the Rule of Law: Checklists and European Standards

Boštjan Zalar, Project Reporter of the Project on the Detention of Asylum Seekers and Irregular Migrants and the Rule of Law: Checklists and European Standards, shares his perspective of working on this ELI project from 2015 to 2017.



The impact of the project for EU citizens lies in the fact that the right of liberty and security of a person is the core element of the rule of law and this can not be properly in place if powers (to detain or to regulate detention) are not exercised in accordance with the proclaimed EU values.

## How would you describe the project outcome in a couple of sentences?

This project brings to judges and lawyers three user friendly check-lists with explanatory notes that are built on primary and secondary EU law and on the combined and integrated case law of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR). Each check-list contains around 50 referenced standards, criteria or legal issues which are relevant in disputes on detention and also in drafting new legislations in this field.

## Why was this project relevant for the development of the European legal order? Does it remain relevant?

The project remains to be relevant for the European legal order, because

## Quick Facts:

Project Type and Output: [Statement](#)  
 Project Period: November 2015–  
 September 2017  
 Read more about the project [here](#).

one can not properly apply or draft national rules on administrative detention without at the same time taking into account very extensive and specific secondary and primary EU law, case law of the CJEU and ECtHR, which make this kind of disputes and legal issues very complex.

## What do you consider the direct impact of the project for citizens?

Although direct beneficiaries of this projects should be foreigners, officials and experts involved in detention cases or legislative processes, the impact of the project for EU citizens lies in the fact that the right of liberty and security of a person is the core element of the rule of law and this can not be properly in place if powers (to detain or to regulate detention) are not exercised in accordance with the proclaimed EU values.

## What are your personal memories of the project?

My personal memory of the project is that at the very first meeting I have told to the members of the Project Team that I am very much familiar with the case law of the ECtHR and CJEU and that we can draft the ELI Statement on around 25-30 pages. The ELI Statement has over 320 pages.

## What are your recommendations for future projects in this area?

In principle, checklists need to be updated in line with eventual new legal developments. In our case, there has not been much of substantially new legal development since September 2017 with perhaps three or four exceptions. Nevertheless, when the EU legislator will draft

## About the Project Reporter

Professor 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 a lecturer at the Legal Clinics, Faculty of Law at the University of Ljubljana (Slovenia).

Professor Zalar is the President of the European Chapter of the International Association of Refugee and Migration Judges (IARMJ-Europe) and a former co-chair of the Working Party on Asylum and Immigration of the Association of European Administrative Judges (AEAJ). Professor Zalar was a member of the Advisory Committee of the ELI Project 'Statement on Case-Overload at the European Court of Human Rights', a member of the Advisory Committee of the ELI-ReNEUAL project 'Model Rules on EU Administrative Procedures', Project Reporter of the Statement on 'Detention of Asylum Seekers and Irregular Migrants and the Rule of Law' and he is a member of the Advisory Committees of the ELI Project on 'Common Constitutional Traditions in Europe' and of the ELI Project 'ELI-Mount Scopus European Standards of Judicial Independence'.

# Message from

# Paul Tang

## Member of the European Parliament

Dear ELI Members and Friends

Information spreads in our globalised and digital age faster than ever before. As a result, technological advances benefit more people more quickly, while it may be hard to capture private gains from one's innovation. Yet, if there's one thing that spreads faster than information it is money or, more accurately, the intangible assets that generate the bulk of income for many companies. Seeking to profit of the positive externalities of R&D investments while attracting mobile, profit-generating assets, many European governments expanded tax incentives for R&D expenditure and introduced patent-boxes with reduced tax rates. While promoting R&D investments is globally beneficial, the 'beggar-thy-neighbour' attitude of many patent-boxes usually is not. A global agreement on a minimum effective corporate tax rate offers Europe the opportunity to end this destructive race to the bottom, while harnessing the power of tax incentives to maintain Europe as a hub for innovation.

The benefits of R&D incentives have long been discussed. Around the year 2000, I worked for the Dutch *Centraal Planbureau* where I, together with other researchers, looked at the societal benefits of R&D (see eg Jacobs et al 2002). We found that R&D is associated with significant positive spillovers, and that those spillovers are localized at centers of innovation. Since most spillovers will remain in a country's own territory, it is beneficial

for governments to promote R&D at home. Due to a large body of research with similar findings, the number of countries offering R&D incentives grew significantly. While in 1994, five EU member states had R&D tax incentives in place, this had grown to 25 by 2014 (Gaillard and Straathof, 2015).

Tax incentives have both taken the form of tax incentives for R&D itself, allowing expenses to be tax-deductible, and in the form of patent boxes, offering beneficial tax rates for income from intellectual property. In the last two decades, 13 EU Member States plus the UK have introduced patent boxes (Tax Foundation, 2020). Such boxes are controversial because they do not incentivise the activity with positive spillovers itself (R&D expenses), but instead increase potential rewards. This benefits those actors able to make risky investments over the more cash-ridden entrepreneurs who would benefit from a reduced cost of R&D. In addition, patent-boxes come over and above already-existent R&D incentives: patents themselves. It is questionable whether there's a need for a lower tax rate in addition to the already granted monopoly power. The benefits offered by patent-boxes are frequently excessive. The Dutch patent box, for example, can be used for both patented and certain types of non-patented material. This helped Booking.com reduce its tax bill by €1.8 billion between 2010 and 2018



(Vermeulen, 2019). In addition, I found that the Dutch patent box system allows profits from all over Europe to be taxed at a low level (Bussink and Tang, 2018). Patent boxes are thus a way to decrease the global effective tax rate paid by corporates and have contributed significantly to the global race the bottom.

Ever since the financial crisis, the European Commission has tried to put a stop to this race to the bottom. Already in 2011, the Commission proposed a unitary tax system in the EU. Such a system gives the EU one common definition of the tax base and allocates parts of this base to individual countries based on a formula including a company's employees or sales in each country. This file being blocked in the Council, the Commission proposed in 2016 two new proposals, separating the



common definition of a tax base from the allocation formula. The proposal for a tax base included a common approach to R&D tax incentives, stipulating a 200% super deduction for R&D expenses or, in the parliament's amendments to the file, a 10% tax credit on such expenses. While this would somewhat limit the ability of member states to compete on tax incentives, it left many issues unaddressed. Firstly, patent-boxes were outside the scope of this proposal, meaning the most harmful element of R&D incentives can continue to exist. Secondly, it did not do much to define what constitutes R&D expenses, leaving member states with the ability to compete, if not on the rate of R&D incentives, at least on their scope. The recently approved ELI Study provides a much-needed impetus in this debate.

While none of these Commission proposals gathered the necessary unanimity from Member States, the current global momentum in reforming our international tax system might provide the chance for a breakthrough. The OECD inclusive framework, consisting of some 135 countries, is close to agreeing on a

global minimum effective corporate tax rate. The difference between this rate (currently 'at least 15%' is being discussed) and the actual rate paid in each country in which a company operates, can be levied by the company's home country. Patent boxes, which typically grant a rate much below 15%, will thus lose their appeal. In addition, defining an effective tax rate means creating a common definition of the tax base. An agreement on a 15% tax rate begs the question: '15% of what?'. The European Commission already announced that it will implement any international agreement via EU legislation, meaning a common EU tax base and the role of R&D incentives in determining this base will again be hotly debated.

The current issue of the European Law Institute's newsletter is therefore timely and relevant. It helps stimulate debate on the *raison d'être* of R&D tax incentives and provides a practical framework for a common approach to such incentives. This is imperative if we want to harness the benefits of R&D spending without it resulting in a harmful race to the bottom.

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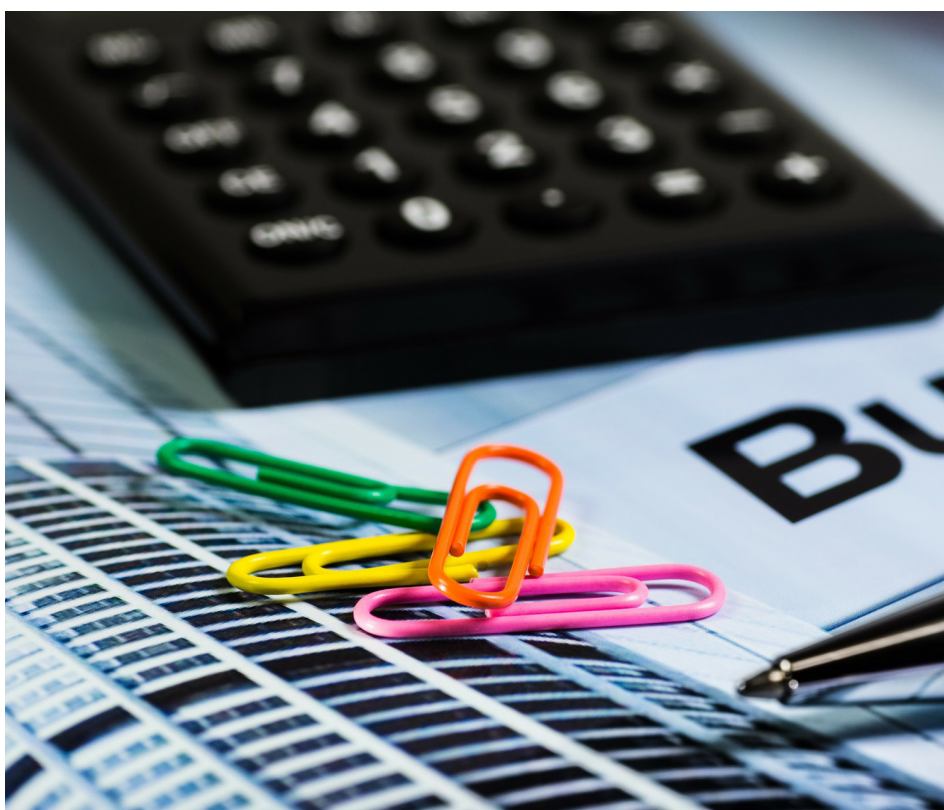
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# ELI Study on 'For a European Approach to R&D Tax Incentive(s)

On 21 May, the ELI Council approved the results of the ELI project on 'For a European Approach to R&D Tax Incentive(s)', which develops 10 Principles to propose new solutions to the problem of lack of a uniform definition of R&D and R&D expenditure.

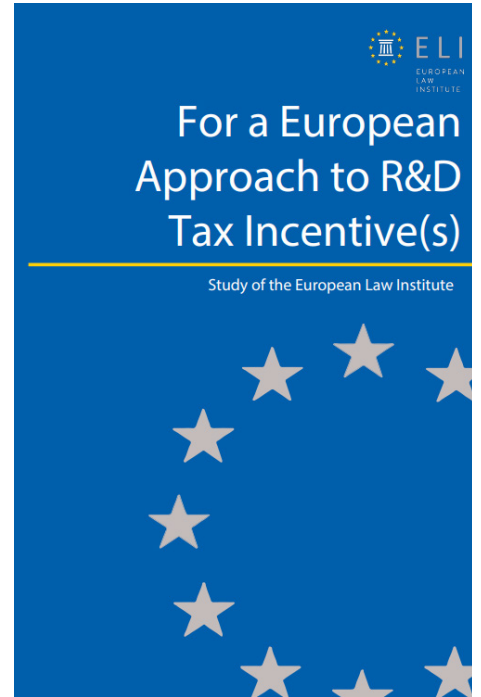
Based on a comparative analysis of 15 country reports, the Study offers a common interpretation of R&D and R&D expenditure and aims to strengthen pan-European Union R&D activities through a uniform approach to R&D, and thereby contributes to economic activity by removing barriers to the Single Market.

The ELI Study might feed into the European Commission's proposal for a Common Corporate Tax Base (CCTB) directive. The latter aims at establishing a single set of rules for calculating the corporate tax base in the EU Member States that should improve the Single Market for businesses by reducing administrative burdens, compliance costs and tax obstacles for companies operating in multiple Member States. The CCTB defined R&D, but did not address many existing discrepancies between national tax laws, including what would constitute R&D expenditure. This lack of

certainty as to what constitutes R&D means that there is no uniformity within the EU as to what costs are eligible for R&D tax incentives. The CCTB proposal did not, therefore, remedy the theoretical and practical problems arising from varying national definitions of R&D and, in this regard, was a missed opportunity to provide a legal environment conducive to R&D.

With CCTB being still at the stage of negotiation, the ELI Study has the potential to revive the discussion on the proposal and in any case to standardise the approach towards R&D tax incentives throughout the EU.

ELI wishes to express its gratitude to the Project Reporter, Georges Cavalier, the Project Team, Advisors and National Correspondents for their efforts on completing this important work.



[Read the Study](#)





## ELI Webinar on R&D Tax Incentive(s)

**On 1 July 2021, on the occasion of the publication of the ELI Study on For a European Approach to R&D Tax Incentive(s), ELI hosted a webinar to discuss the outcome of the Study as well as the issue of tax incentives more broadly.**

Georges Cavalier (Chair; Associate Professor, University of Lyon) opened the webinar by emphasising that, despite harmonisation of tax rules is being often debated nowadays, the harmonisation of tax concepts is not. However, before harmonising tax rules, one needs a common language, as tax concepts have precise meanings and the differences in tax system structures may not necessarily reflect the common understanding. To test this idea, the ELI Project Team selected to study R&D tax incentives, as EU Members States do not share the understanding of the concept of R&D in its entirety, and proposed a common approach to such incentives. He further elaborated on the methodology and outcome of the project, emphasising, among other things, the project's importance in light of R&D being one of the five targets to sustain economic development of the EU. R&D expenditures in the EU should amount to 3% of the EU's GDP and R&D tax incentives are an important mean to achieve this goal. The output of the ELI Study could serve as an inspiration not only to the EU legislator, but also national legislators and tax authorities. It could also provide more clarity for taxpayers.

Ioanna Mitroyanni (Deputy Head of Company Taxation Initiatives Unit, European Commission) presented the European Commission's work in the area. She explained that the EU is, due to the Treaties, rather limited to act in the area of R&D tax incentives. This is despite the fact that there might be a need to enhance R&D as the EU keeps falling behind in terms of speed in developing R&D and innovation compared to its major trading partners, such as the USA and China. Despite this, there are some developments in both input/output incentives in R&D; some solutions were proposed also in the European Commission's proposal for a Common Corporate Tax Base

(CCTB) Directive, which was, however, never agreed in the Council. In terms of output incentives, the Commission has done some work via the Code of Conduct Group, which dealt with patent and IP boxes. If there will be an agreement in the Organisation for Economic Co-operation and Development (OECD) on the so-called Pillar 2 on the minimum effective tax rate in the future, further changes can be anticipated in the area of output incentives for R&D.

Emer Hunt (Professor, University College Dublin) discussed the reasons why R&D tax incentives are interesting for legal academics, despite it being seen primarily as a topic of interest to practitioners. There is a valuable process in considering what is meant by R&D so that a common language as well as disagreements can be identified, leading to increased transparency. She reflected on the rationale for studying jurisdictional R&D, emphasising that tax law is a complex topic in both national and cross-border contexts. The ELI project with its mapping exercise conducted over 19 jurisdictions and legal analysis provided for a certain clarity on terminology, helping to consider the aim of having tax incentives for R&D, their efficiency and purpose as well as setting the stage for an interdisciplinary discussion on R&D.

Rémi Barnéoud, (Partner, Taj) addressed the importance of the ELI project from the perspective of practitioners. R&D incentives have been around for quite a long time in the EU; however, there has been a relative stagnation in this area in the last 10 years. R&D incentive policies are, however, important for several reasons. Firstly, they help to increase the EU's attractiveness and competitiveness for investors, as compared to for example North America and Asia. Secondly, they allow for compensations of the relatively high corporate tax rates in the EU Members States. Thirdly, they can lower the most important cost of R&D in the EU, which is labour, as between 70-80% of the cost of an R&D project are labour costs. Lastly, they are also important for harmonising R&D eligible expenses across the EU. He further elaborated on the much-needed common definition of R&D in the EU, reflecting on Principles 2 and 10 of the ELI Study.

During the Q&A session, participants discussed the possibilities for the CCTB Directive to be adopted in the future and alternatives for unifying tax regulations in the EU, as well as the impact of the ELI Study in the field and need for further transparency on R&D tax incentives.

[Watch the Webinar](#)





# Spotlight

## Tax Incentive for R&D: What Will be the New Normal?

by Jeffrey Owens

Tax competition has been a long-standing issue in the international tax arena and its sustainability is now in question with respect to the contribution it offers to ensure sufficient domestic resource mobilisation to finance public services and sustainable development overall. The current system has largely operated based on the need for efficient allocation of resources and minimal distortion of market decisions. Given the revenue pressures arising from the impact of COVID-19, the current response to the policies that give rise to tax competition and, the overall focus on global, as opposed to national welfare, a renewed effort to re-evaluate the appropriateness of incentive requires is now underway and this is the background against which the ELI study on R&D Tax Incentives should be seen.

The debate, regarding the need to identify the characteristics of acceptable and unacceptable Tax Incentives, has been ongoing with differing emphasis since 1919 when efforts to address double taxation first arose. By 1961, when the Organisation

for Economic Cooperation and Development (OECD) had been formally tasked with addressing cross-border taxation issues, European economic integration had increased significantly, trade barriers were falling globally due in part to the General Agreement on Tariffs and Trade (GATT), private financial transactions were growing fast, and capital was becoming more mobile. The increased mobility of capital put increased pressure on countries to use Tax Incentives including for R&D. Businesses were increasingly able to lower their tax costs by using international business structures being provided by countries including the use of patent boxes. Bankers, lawyers, accountants and other professionals aggressively competed for business both by pushing their national governments to lower tax rates and extend the use of Tax Incentives. These trends had significant implications for tax policy, as cross-border investors looked to maximise their post-tax not their pre-tax returns. Countries sense that they are increasingly in a position of competing as a location for R&D activities and, as a result, they are

**With the real impact of the pandemic being felt on the tax revenue of countries, the welfare of national tax systems and their ability to provide sustained financing will be extremely important. As a result, countries will need to reconsider the balancing of objectives to prioritise fairness (in an effort to increase and encourage compliance amongst other outcomes) and meet the needs of citizens whilst continuing to compete for R&D under a rapidly transforming global economy.**

**– Jeffrey Owens**



under pressure to reduce taxes on the return on such investments and the outcome is that, there was a spread of R&D Incentives especially in the form of patent box regimes.

The latest OECD/G20 proposals to address the tax challenges arising from digitalisation tries to ensure that multinational enterprises (MNEs) pay a minimum level of tax regardless of where they are headquarters. A minimum effective tax rate of 15% has been proposed. This minimum tax can act as a potential floor for Tax Incentives, including R&D Incentives.

In this context, the EU will need to pay special attention to whether R&D Incentives are compatible with the State Aid rules to ensure that they do not distort competition within the EU. Also, all countries will need to verify that any Incentives provided do not fall foul of the OECD guidelines and the WTO subsidies rules.

To respond to these new constraints, countries may use alternative measures to attract R&D activities outside of the direct tax system including Value Added Tax Incentives and other forms of subsidies. Countries may switch from competing to attract R&D by competing for the researchers, which carry out the R&D, through a variety of schemes including non-domiciled regimes and citizenship by investment. Countries may need to engage in a process of reviewing their entire incentive

regimes, including special economic zones (SEZs) and free ports.

The overall preference for Tax Incentives over non tax measures has endured because they are self-managed and not transparent. How should countries design R&D regimes:

- Determine the objective or target;
- Establish how much they intend to spend;
- Identify the best methods to achieve the objective or target; and
- Ensure that monitoring controls are introduced.

With the real impact of the pandemic being felt on the tax revenue of countries, the welfare of national tax systems and their ability to provide sustained financing will be extremely important. As a result, countries will need to reconsider the balancing of objectives to prioritise fairness (in an effort to increase and encourage compliance amongst other outcomes) and meet the needs of citizens whilst continuing to compete for R&D under a rapidly transforming global economy.

As long as taxes exist, we will have tax competition, what we need to do is to ensure the competition is fair and transparent.

## The Author



For over 20 years, Jeffrey Owens led the OECD tax work, and now he is the Director of the WU Global Tax Policy Center (WU GTPC) at the Institute for Austrian and International Tax Law, Vienna University of Economics and Business (Wirtschaftsuniversität Wien, WU). He also serves as a Senior Policy Advisor to the Global Vice Chair of Tax at EY, and as a Senior Advisor to the United Nations Tax Committee, the Inter-American Development Bank (IDB) and the United Nations Conference on Trade and Development (UNCTAD) and a number of regional tax administration organizations as well as being involved with a number of NGOs.





# Updates on ELI Projects

Below is an overview of ELI Projects-related events that took place in May and June 2021. Please follow the link to read more on these stories.

## Access to Digital Assets

### Project Team Meeting

The Project Team, Assessors and Observers met remotely on 4 May 2021 to provide feedback on the first draft output.

[Read here](#)

## ELI-Mount Scopus European Standards of Judicial Independence

### Project Team Meeting

On 13 May 2021, the Project Reporters and members of the Advisory Committee continued their discussion of the current Mount Scopus.

[Read here](#)

## Principles for a Data Economy

### Draft Approval by ALI

On 18 May 2021, the current draft was presented at the 2021 ALI membership meeting and approved by ALI members.

[Read here](#)

## AI and Public Administration

### Project Team Meeting

The Project Team and Assessors convened remotely on 25 May 2021 to discuss rules for public participation.

[Read here](#)

## ELI-Mount Scopus European Standards of Judicial Independence

### Project Team Meeting

On 26 May 2021, Section 4 of the Mount Scopus International Standards of Judicial Independence ('MtSP') were discussed.

[Read here](#)

## ELI-Mount Scopus European Standards of Judicial Independence

### Project Team Meeting

On 9 June 2021, Section 5 on Judicial removal and discipline was discussed.

[Read here](#)

## Blockchain Technology and Smart Contracts

### Project Team Meeting

On 14 June 2021, the Reporters met with the Project Team, Advisory Committee and Members Consultative Committee to discuss the draft output of the project.

[Read here](#)

## Access to Digital Assets

### Meeting with AC and MCC

On 17 June 2021, the Project Team met with the Advisory Committee and Members Consultative Committee (MCC) to discuss the first draft output on Use of Digital Assets as Security.

[Read here](#)

## Principles for a Data Economy

### Project Team Meeting

On 28 June 2021, the Project Team met with the ELI Advisory Bodies and received valuable feedback on the Tentative Draft No 2.

[Read here](#)

## AI and Public Administration

### Project Team Meeting and AC

On 29 June 2021, the Project Team and Advisors met remotely to discuss the revised draft Model Rules.

[Read here](#)



# Updates on ELI Hubs and SIGs

Below is an overview of Hub and SIG activities in May and June 2021. Please follow the link to read up on these stories.

## Environmental Law SIG Webinar on 'Sustainable Public Procurement'

On 6 May 2021, ELI Environmental Law SIG organised a Seminar on Sustainable Public Procurement. Read more [here](#).

## Croatian Hub Held the Fourth Webinar in its Webinar Series

On 14 May 2021, the ELI Croatian Hub held its fourth webinar in a series of webinars organised to contribute to the discussion on the current ELI projects and recent developments in Croatian, comparative, and EU law. Read more [here](#).

## Spanish Hub Organised its 6<sup>th</sup> Annual Meeting

On 14 May 2021, the ELI Spanish Hub held its Annual Meeting on European Case Law, which attracted more than 350 participants from 21 countries. Read more [here](#).

## Environmental Law SIG Webinar on 'Access to Justice in Environmental Matters'

On 14 May 2021, the ELI Environmental Law SIG organised a seminar on 'Access to Justice in Environmental Matters'. Read more [here](#).

## Austrian Hub Held and Evening Lecture on Antitrust Law

On 19 May 2021, the ELI Austrian Hub organised its third lecture on 'Essential Platforms' in its evening lecture series on antitrust law. Read more [here](#).

## Environmental Law SIG Webinar on 'Climate Change Litigation'

On 27 May 2021, the ELI Environmental Law SIG organised a seminar on 'Climate Change Litigation'. Read more [here](#).

## Insurance Law SIG Transatlantic Lecture

On 27 May 2021, the ELI Insurance Law SIG organised a second transatlantic lecture on insurance law, which dealt with COVID-19 and reinsurance. Read more [here](#).

## Croatian Hub Members Meeting

On 28 May 2021, the ELI Croatian Hub held its Annual Members Meeting and discussed, among other things, the ELI Hub and SIG Guidelines, the Hub Membership and the Hub's planned activities for 2021 and 2022. Read more [here](#).

## Environmental Law SIG Webinar on 'EU Sustainable Product Policy Initiative'

On 3 June 2021, the ELI Environmental Law SIG organised an online seminar on the EU Sustainable Product Policy Initiative. Read more [here](#).

## Austrian Hub Lecture on Antitrust Law

On 9 June 2021, the ELI Austrian organised its final, fourth lecture on the 'Digital Markets Act (DMA)' in its lecture series. Read more [here](#).

## Environmental Law SIG Webinar on Sustainable Banking

On 10 June 2021, the ELI Environmental Law SIG organised an online seminar on Pathways to Sustainable Banking: Values and Legal Instruments. Read more [here](#).

## Environmental Law SIG Webinar on Climate Change

On 17 June 2021, the ELI Environmental Law SIG organised an online seminar on the Problem for the Climate Change Argument in WTO Law: Time to Reconsider the WTO Treaties – the Case with WTO Anti-dumping Law. Read more [here](#).



## Updates on ELI Representation

Below is an overview of ELI's representational activities in May and June.

### Meeting Between ELI President and Council of Europe Secretary General

**On 10 June 2021, ELI President Christiane Wendehorst met with Secretary General of the Council of Europe Marija Pejčinović Burić in Vienna.**

ELI President Wendehorst and the Secretary General Pejčinović Burić discussed recent developments in areas of common interest, in particular regarding the rule of law and state of democracy in Europe.

The meeting offered also an opportunity to explore further cooperation possibilities between ELI and the Council of Europe as well as discuss the upcoming keynote speech of Secretary General Pejčinović Burić at the ELI Annual Conference 2021. More information about the keynote speech will follow in due course.



### ELI President and Vice-Presidents Met UNIDROIT Secretary-General and Deputy Secretary-General

**On 14 June 2021, ELI President Christiane Wendehorst, First Vice-President Lord John Thomas and Second Vice-President Pascal Pichonnaz met with UNIDROIT Secretary-General Ignacio Tirado and Deputy Secretary-General Anna Veneziano to reflect upon successful past cooperation and explore further synergies between ELI and UNIDROIT.**

Participants expressed their appreciation for the successful cooperation between the two organisations over the past years, in particular in the framework of their flagship project on Model European Rules of Civil Procedure, but also through joint events and exchange of expertise through Observers in projects.

They also considered possibilities for further strengthening the cooperation in the future and discussed topics of common interest.

### ELI-ELSA Meeting

**On 16 June 2021, ELI President Christiane Wendehorst and President-elect Pascal Pichonnaz met with the outgoing President of the European Law Students' Association (ELSA) Weronika Bańska and incoming ELSA President Francisco Arga e Lima.**

Representatives of both organisations discussed the successful cooperation between ELI and ELSA, with ELSA being an ELI Institutional Member, and possibilities to further strengthen it in the future. They elaborated on existing projects and activities of both organisations, in particular ELSA's Rule of Law education campaign.

# ELI at 10: EU Platform Regulation Beyond the Digital Services Act Package - What is the Role of ELI?

**On 8 June 2021, on the occasion of ELI's 10th year anniversary, ELI hosted a webinar devoted to the ELI Model Rules on Online Platforms. Participants discussed EU platform regulation beyond the Digital Services Act (DSA) and the Digital Markets Act (DMA) and reflected on what role ELI could play in future regulatory developments.**

The ELI Model Rules on Online Platforms, published at the beginning of 2020, provided some innovative solutions with regard to the newly emerging and rapidly growing platform economy, feeding also into later developments at the EU level.

At the end of 2020, the European Commission issued the Digital Services Act package, containing proposals for a DSA and a DMA. Yet the policy debate is not over once these two regulations will be adopted and many questions, such as the need for sector-specific legal instruments and future role of other legal instruments, will remain open. The ELI webinar provided an opportunity to discuss these topical issues with experts in the field.

The Chair of the webinar, Fryderyk Zoll (Professor, University of Krakow & University of Osnabrück) emphasised that the topic is also of great importance to ELI, as it offers an opportunity to reflect whether ELI output in the form of Model Rules is a good device to developing the law at the national, EU and/or European level.

Christoph Busch (Professor, University of Osnabrück & Yale Law School Information Society Project) presented how ELI has contributed to the policy debate on the DSA package and where possible areas for future ELI work might be identified. He pointed out that the ELI Model Rules on Online Platforms have been taken up by several stakeholders, like The European Consumer Organisation and European Parliament, as well as served as a source of inspiration in the legislative process regarding the

DSA. The question whether these suggestions will be taken up in the final version remains however open.

Gerhard Dannemann (Professor, Humboldt University of Berlin & University of Oxford) discussed short-term rental platforms, explaining their features and how the ELI Model Rules address challenges connected to such platforms. He pointed out further challenges brought by the COVID-19 pandemic, as some of the biggest online short-term rentals platforms had adopted strikingly different strategies on how they and their users should deal with the effects of the pandemic with regard to short-term rental agreements.

Prabhat Agarwal (Head of Unit Digital Services and Platforms, European Commission) emphasised that ELI's work is on the radar of European policy makers. He provided further insights on the internal functioning of the law-making process, elaborating on the example of the DSA, and how future Model Rules might fit into it. He also presented personal recommendations for the future work of the Institute.

Rania Wazir (Board Member of the Vienna Data Science Group) considered platform regulations from the data science perspective, emphasising the need for further control on who has access to data, increase the choice and options for users as well as verifiability. She further commented on the ELI Model Rules, expressing her appreciation for the effort to create harmonised rules and push for standardisation. She also observed that certain issues could be expanded on, such as how third party recommenders and third party reputations systems, if allowed, could fit into the liability regime.

During the Q&A session, the above Speakers together with Hans Schulte-Nölke (Professor, University of Osnabrück & University of Nijmegen) and Aneta Wiewiorowska-Domagalska (Senior Research Fellow, University of Osnabrück) considered several important issues raised by participants, such as the societal impact of online platforms and the possibility of a uniform connecting factor protecting platform users.

[Watch the Webinar](#)





# ELI at 10: Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law

**On 22 June 2021, on the occasion of ELI's 10th anniversary, ELI hosted a webinar on the Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law, which discussed the solutions developed by the eponymous ELI project and its impact in practice.**

The Report on the Prevention and Resolution of Conflicts of Jurisdiction in Criminal Matters in the European Union, approved by ELI bodies in 2017, offered three Legislative Proposals on how to effectively tackle these problems. Published by OUP in 2018 and referred to by several important stakeholders, such as the European Parliamentary Research Service, the Report has been, and still is, stirring discussions.

The Chair of the webinar, Lord John Thomas (ELI First Vice-President), emphasised that with the new types of transnational crimes and different regimes of jurisdiction in various countries, a mechanism for the settlement of conflicts of jurisdiction is of great importance.

André Klip (Professor at Maastricht University; Co-Reporter of the ELI project) began by explaining what jurisdiction is and by illustrating the problems of overlapping jurisdictions. The power and competence of a state to apply its substantive criminal law on the conduct of human beings can create positive and negative conflicts of jurisdiction. There are situations when two states can have jurisdiction, but also there might be a situation where no state has jurisdiction or when a state is inactive in enforcing its jurisdiction. In order to address those situations, the ELI Report proposed three solutions. One of them, the mechanism for the allocation of criminal jurisdiction in the Area of Freedom, Security and Justice (AFSJ), would prevent conflicts of jurisdiction by establishing uniform European rules on the allocation of the exercise of criminal jurisdiction. It refers to the principle of territoriality, but addresses also the challenges

resulting from multi-territorial offences.

Gavin Robinson (Researcher at the University of Utrecht; Project Team member of the ELI project) continued by explaining two other mechanisms developed by the Project Team, namely the horizontal and vertical ones. While the former puts primary responsibility to resolve conflicts of criminal jurisdiction among Member States themselves, the latter entails a binding decision of a supranational body – Eurojust on the choice of forum, in case such horizontal consultations between Member States fail. From the regulatory point of view, Robinson explained, the proposed legislative instrument for the horizontal model is a directive, while for the vertical one – because of the possibility of a binding decision by Eurojust – a regulation.

Teresa Magno (Assistant to the National Member for Italy, Eurojust) provided an overview of the status quo as to the current legal framework in the field and explained that there is no binding instrument establishing a mechanism to resolve conflicts of jurisdiction in criminal jurisdiction in the EU. She went on explaining the principles upon which jurisdiction is

exercised currently and stressed the urgency to address the jurisdiction conflicts, especially in connection to the transnational crimes and cybercrimes. She emphasised that the territoriality principle does not solve the problem of positive jurisdictional conflicts, as it allows more than one state to exercise jurisdiction. She then explained the role of Eurojust in solving conflicts of jurisdiction and accentuated that Member States may refuse, in certain cases, to follow its written opinion on jurisdiction and that Eurojust is competent only in relation to some crimes.

A stimulating discussion with participants followed with regard to the three models elaborated within the framework of the ELI project, consequences of Brexit for the solutions for conflicts of jurisdiction and role of Eurojust and its involvement in solving conflicts of jurisdiction. It was also opined that the biggest problem that causes conflicts of jurisdiction is the lack of reasoning of decisions by competent national authorities.

[Watch the Webinar](#)



# ELI Welcomes its New Members

ELI is pleased to share information about its individual and institutional Members.

## Sustaining Members:

The following Member has joined as, or changed their Membership to that of a Sustaining Member, who pay an additional 60 EUR per year to support the ELI's work:

**Cristina Poncibò**, University of Turin, Italy

**Marc Rotenberg**, Center for AI Digital Policy; Georgetown Law, United States of America

## Swiss Lawyers Association (Schweizerischer Juristenverein)

The SJV is the association of all lawyers trained in Swiss law or working in Switzerland, regardless of their field of activity, whether in Advocacy, in Court, as Consultants or in Administration. It strives for a representative participation of the members of these fields of activity.

**SJV** Schweizerischer Juristenverein  
**SSJ** Société suisse des juristes  
**SSG** Società svizzera dei giuristi

## New Individual Members:

**Luigi Ardizzone**, University of Brescia, Italy

**Maria Bertran**, Loyola University Andalusia, Spain

**Kei Hannah Brodersen**, University of Neuchâtel & University of Luxembourg, Switzerland

**Isabelle Chabloz**, University of Fribourg, Switzerland

**Nicoleta Cherciu**, Sant'Anna School of Advanced Studies, Romania

**Dunja Duić**, University of Osijek, Croatia

**Habat Duran**, University of Osnabrück, Germany

**Jacek Dybinski**, Jagiellonian University, Poland

**Denis-Roxana Gavrilă**, Romanian Ombudsman, Romania

**Yaroslav Lazur**, Uzhhorod National University, Ukraine

**Cristina Mariottini**, Max Planck Institute Luxembourg, Luxembourg

**Raphael Oidtmann**, Peace Research Institute Frankfurt, Germany

**Andrea Pisani Tedesco**, University of Milano-Bicocca, Italy

**Cristina Poncibò**, University of Turin, Italy

**Luca Ratti**, University of Luxembourg, Luxembourg

**Orsola Razzolini**, University of Milan (Statale), Italy

**Marc Rotenberg**, Georgetown University, United States of America

**Paolo Saguato**, George Mason University, United States of America

**Magdaléna Svobodová**, Charles University, Czech Republic

**Amund B. Tørum**, Scandinavian Institute for Maritime Law, University of Oslo, Norway

**Lavinia Vizzoni**, University of Siena, Italy

**Amit Yadav**, Manipal University Jaipur India, India

**Aldo Zammit Borda**, University of London, United Kingdom



# 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.



<b>Jul</b>	<b>6 Jul</b>	<b>Corporate Sustainability, Financial Accounting and Share Capital Project Team Meeting</b> <i>Online</i>
	<b>15 Jul 18:30 (CET)</b>	<b>Webinar 'ELI at 10: Rescue of Business in Europe – the Impacts of ELI's Work</b> <i>Online</i>
	<b>15 Jul</b>	<b>Business and Human Rights Project Team Meeting</b> <i>Online</i>
	<b>20 Jul 18:30 (CET)</b>	<b>Webinar 'ELI at 10: Future of Civil Procedural Law – ELI-UNIDROIT Model European Rules of Civil Procedure and Their Impact</b> <i>Online</i>
	<b>21 Jul</b>	<b>AI and Public Administration Project Team Meeting</b> <i>Online</i>
<b>Sep</b>	<b>6–8 Sep</b>	<b>ELI Annual Conference and Meetings</b> <i>Online</i>
	<b>23 Sep</b>	<b>Insurance Law SIG: Transatlantic Lecture</b> <i>Online</i>

# ELI Annual Conference 2021

## Tentative Programme

### TUESDAY | 31 AUGUST 2021

09:00 – 13:00 (CET)      ELI Executive Committee Meeting (Executive Committee Members Only)

### WEDNESDAY | 1 SEPTEMBER 2021

09:00 – 14:30 (CET)      ELI Council Meeting (Council Members Only)

### THURSDAY | 2 SEPTEMBER 2021

16:00 – approx. 19:00 (CET)      ELI Council Elections 2021: Presentation of Council Candidates

### FRIDAY | 3 SEPTEMBER 2021

15:00 – 15:25 (CET)      ELI Senate Meeting (Senate Members Only)

15:30 – 16:30 (CET)      ELI Executive Committee-Senate Meeting (Executive Committee and Senate Members Only)

### MONDAY | 6 SEPTEMBER 2021

10:00 – 11:00 (CET)      Membership Meeting and Opening of ELI Council Elections

15:30 – 17:00 (CET)      **Welcome Addresses**

**Keynote speech by Council of Europe Secretary General Marija Pejčinović Burić**

17:15 – 18:30 (CET)      Principles for a Data Economy: Data Rights and Transactions (with the American Law Institute; Presentation of Final Output)

18:45 – 20:00 (CET)      Access to Digital Assets: Use of Digital Assets as Security (Presentation of Final Output)

### TUESDAY | 7 SEPTEMBER 2021

09:00 – 10:15 (CET)      Blockchain Technology and Smart Contracts



10:30 – 11:45 (CET)	Artificial Intelligence (AI) and Public Administration – Developing Impact Assessments and Public Participation for Digital Democracy
12:00 – 13:15 (CET)	Admissibility of E-Evidence in Criminal Proceedings in the EU
14:15 – 15:30 (CET)	The Concept and Role of Courts in Family and Succession Matters
15:45 – 17:00 (CET)	Climate Justice – New Challenges for Law and Judges
19:00 – 19:45 (CET)	ELI Young Lawyers Award
19:45 – 20:00 (CET)	ELI SIG and Hub Awards
24:00 (CET)	<i>Closing of ELI Council Elections</i>

## WEDNESDAY | 8 SEPTEMBER 2021

09:00 – 10:15 (CET)	Corporate Sustainability, Financial Accounting and Share Capital
10:30 – 11:45 (CET)	Ecocide
12:00 – 13:15 (CET)	ELI-Mount Scopus European Standards of Judicial Independence
14:30 – 15:45 (CET)	Fundamental Constitutional Principles
16:00 – 17:15 (CET)	The Concept of Corporate Criminal Liability
18:30 – 19:45 (CET)	Membership Meeting and Announcement of ELI Council Elections 2021 Results  Closing Ceremony (Handover of Presidency)

## WEDNESDAY | 15 SEPTEMBER 2021

09:00 – 11:00 (CET)	Council Meeting (New Formation, Council Members Only)
16:00 – 17:00 (CET)	Council Meeting (New Formation, Council Members Only)



**Please regularly consult  
[www.europeanlawinstitute.eu](http://www.europeanlawinstitute.eu)  
for the latest updates.**

# ELI Council and Executive Committee Elections 2021: Serving on ELI Bodies

**On 6 and 7 September 2021, during the online ELI Membership meeting, Fellows will elect 28 new Council Members. ELI is pleased to invite interested Individual Fellows to stand for election.**

ELI Individual Fellows who want to play a more active role in the Institute and who are eager to help shape the future of ELI by making important decisions about its governance and activities, can put themselves forward for a seat on the ELI Council. Members of the Council are responsible for electing the Executive Committee. They decide which projects ELI should embark on, appoint Project Team members, act as Assessors of ELI projects, and approve project results, the Institute's accounts and budget as well as applications for new Members, among other things. Council Members have the opportunity to join standing committees, namely the Membership and/or the Fundraising Committee. They are also encouraged to play a leading role in the management of Hubs and Special Interest Groups (SIGs).

The newly elected ELI Council will elect at its first meeting in September three new ordinary Executive Committee Members from among its Members, who will start serving on the Executive Committee in September 2021 for a two-year term with President-elect Pascal Pichonnaz, First Vice-President-elect Lord John Thomas, Second Vice-President-elect Anne Birgitte Gammeljord and Treasurer-elect Pietro Sirena.

The nomination and endorsement period for the ELI Council elections is open until 25 July 2021. ELI Fellows have received further information on it over email. More information about the elections is available also in the [ELI Elections Brochure](#) and [here](#).





# 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



## ELI Annual Conference 2021

6–8 September (Online)

## 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.



### ELI Secretariat

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