



ELI

EUROPEAN
LAW
INSTITUTE

ELI Updates

May - June 2016



MESSAGE FROM DIANA WALLIS, PRESIDENT OF THE EUROPEAN LAW INSTITUTE

On 23rd June 2016 the United Kingdom voted by 52% to 48% to leave the European Union. The fallout from this referendum result has been chaotic for the UK, the EU and beyond. It is likely to be some months before the exact way forward is clear and therefore a period of some uncertainty is perhaps the only thing that is certain. There is surely a need for calm. My own personal hope is there will be a chance for reflection and perhaps change before the procedure under Article 50 is triggered. There are many views on what might, could or should happen to validate that process I do not think this is the place to rehearse them. This is instead very much about the role of our Institute.

Many things have been read into the vote and however very many of us as pro-Europeans may wish to escape the fact it is clear that a large number of the people making up the 52% will have voted as a result of genuine concerns about the European Union and its direction of travel. Whilst it may be difficult to interpret or specify those concerns, they have to be taken seriously. Whilst of course putting into the balance the many other domestic reasons for using the opportunity to vote against the government and the status quo. It is also obvious that similar concerns exist in other Member States.

As a Europe wide community of lawyers, I believe the ELI has a responsibility in trying to assist in finding a more acceptable vision of the future: this is not about the UK, it is about Europe. There will be voices from across the political spectrum in Europe calling for various changes but we should be able to offer an informed legal view of how the European structures might be improved so as to gain public trust and confidence. As lawyers in our respective communities and embedded in the various courts and legal structures of our own Member States, we should be in a unique position to identify some of the issues and in turn, if we can arrive at an agreed blueprint for improvement, to then communicate that.

Whilst previously this might have seemed too grandiose an undertaking, if we as the legal community are not willing to carefully undertake this work, or perhaps some part of it, then who will? I believe we should begin to assemble a team both from amongst our ranks and beyond at least to look at the scope of what we might feasibly tackle and produce. This might indeed be our moment, we should not allow it to pass by. It is my intention that we should find a way of devoting some time for consideration of this at our Ferrara meeting, but in the meantime all ideas are welcome. As always we will need to have regard to our resources both financial and human but I sense this is much too important and central a discussion for us to be absent.

Diana Wallis

In this issue:

ELI Annual Conference - 2

Panel descriptions - 3

ELI-UNIDROIT event in

Budapest - 8

Family Law Public

Workshop - 9

Meeting of the Criminal

Law Project Team - 10

Updates on ELI Project on

Migration - 11

Meeting of the ELI-ENCJ

Project - 12

Join Members Consultative

Committees - 13

Cooperation with E-CODEX

Group - 13

Updates on ELI Hubs - 14

ELI external relations - 16



**JOIN ELI, EUROPE'S LEGAL COMMUNITY
WORKING TO IMPROVE EUROPEAN LAW**

KEYNOTE SPEAKERS



Koen Lenaerts

President of the Court of
Justice of the European Union



Marta Cartabia

Vice-President of the Italian
Constitutional Court



Dario Franceschini

Italian Minister of Culture

Agenda

Registration

Hotels

HOTELS

Please kindly note that the availability of rooms in Ferrara in September is limited, due to other events happening at that time. Make sure to use the exclusive deals arranged by the ELI Secretariat and [book your room](#) today!

CONFERENCE DINNER

Please also be advised that there is a limited number of places available at the official Conference Dinner. [Register](#) as soon as possible and enjoy this prestigious event!

PANEL DISCUSSIONS

The agenda of the 2016 Annual Conference will feature parallel panel sessions focusing on diverse fields of law, mainly in areas where the ELI is contributing with its work to the development of law in Europe. If you still did not register for the Conference and would like to know more about what will be discussed in each session, you will find interesting information in the following pages. A more detailed agenda for each panel session and conference materials will be available soon, so that you can prepare for the discussions in advance.



UNIVERSITÀ
DEGLI STUDI
DI FERRARA
- EX LABORE FRUCTUS -



universität
wien



Co-funded by the
Justice Programme
of the European Union

Rescue of Business in Insolvency Law I (8 September, 9:45)

This part of the Panel on Rescue of Business in Insolvency Law will be devoted to the actors in the field of restructuring and insolvency.

There are a number of actors and stakeholders involved in insolvency proceedings at different stages. For example, administrators or trustees (more recently referred to as Insolvency Practitioners (IPs) or Insolvency Office Holders (IOHs)). One of the issues that needs to be addressed when designing a legal framework that facilitates business rescue

is to define the role of each actor in the process of restructuring and insolvency (mediator, expert, practitioner), these actors' rights and obligations, the way these professions are selected and appointed (required professional and ethical standards and remuneration). One of the most pertinent question is whether and to what extent insolvency practitioners and other actors should be regulated and their work supervised. The panel will describe, consider and discuss a group of recommendations of the Project Reporters on how these matters should be handled.

Rescue of Business in Insolvency Law II (8 September, 11:30)

The second panel on Rescue of Business in Insolvency Law will focus on possible instruments in pre-insolvency frameworks.

Under (future) insolvency law in EU Member States, insolvency frameworks will probably include proceedings which promote the rescue of economically viable but distressed businesses outside formal insolvency proceedings. Distressed businesses can be of all shapes and sizes and their stakeholders range from employers and suppliers to large multinational banks, municipal communities

and states. A regulatory framework that can encourage business rescue before a debtor actually is insolvent must be carefully drafted to be capable of covering all different scenarios and respecting all legal rights involved. The panel will introduce and discuss a number of recommendations of the Project Reporters on how the parties involved in pre-insolvency situations can be encouraged to negotiate solutions and how these negotiations can be made efficient and effective and resulting agreements practicable.

Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law (8 September, 9:45 and 11:30)

The Project on Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law is aimed at addressing the complex situation where various States have legitimate jurisdiction over a cross-border crime. The Project Team has developed three legislative drafts, each corresponding to a possible regulatory approach, or normative model, that can be used to address such conflicts. These are the following:

1) A draft directive based on horizontal settlement of conflicts. Under this draft conflicts are settled by consultation between the Member States concerned;

2) A draft regulation based on vertical settlement of conflicts. Under this draft conflicts will be settled by a binding decision of Eurojust if the consultation between the Member States lead to no result; and

3) A draft regulation based on territorial jurisdiction in the Area of Freedom, Security and Justice. This draft establishes rules for the allocation of the exercise of territorial jurisdiction.

Two sessions of the Conference will be devoted to explaining and discussing in detail these drafts, their potential impact and added value.

From Transnational Principles to European Rules of Civil Procedure I (8 September, 14:00)

The aim of the ongoing ELI-UNIDROIT joint Project is to develop Model Rules of European Civil Procedure. At the ELI 2015 Annual Conference, three initial working groups presented their work (Access to information and evidence, Provisional and protective measures, Service and due notice of proceedings).

This year, two further working groups (Res judicata and lis pendens, and Obligations of parties and lawyers) will present their advanced work to the

public.

The panel will be chaired by member of the Steering Committee of the project, ELI President, Diana Wallis. The reporters of the two working groups will speak on behalf of their groups and will present the main challenges and achievements of their work to the audience. Two leading discussants, Judge Raffaele Sabato and Judge Paul Gilligan, will provide comments to those presentations.

From Transnational Principles to European Rules of Civil Procedure II (8 September, 16:00)

In April 2015, the Steering Committee of the project decided that to achieve the aims of the project and to cover as wider scope of the issues pertaining to the European civil procedural rules as possible, there was a need to invite additional experts in the field of Judgments, Costs and Parties. Another crucial aspect of the future set of model rules of European civil procedure would be its structure.

Following this decision, the groups on Judgments and Structure were established in April 2016. Two additional Working Groups (Costs, and Parties) will

be appointed in the course of Summer 2016.

The second panel devoted to this project will be chaired by a member of the Steering Committee of the project, the UNIDROIT Deputy Secretary-General, Anna Veneziano. The reporters of the Working Groups on Judgments and Structure will present the envisaged methodology and work plan of their groups. They will also speak about the topics they have identified as the focus of the first stage of their work.

Empowering European Families: Choice of Court and Choice of Law (8 September, 14:00-15:30)

For want of a uniform European regime in the field of marriage and partnership law, couples in the EU are still facing a number of problems when one or both partners live in a country other than their country of origin, when changing the country of their habitual residence, or when buying or selling property abroad. To a certain extent, the existing problems could be overcome by way of early choice of court and choice of law, and by agreeing in advance on important economic issues pertaining to a couple's legal relationship. EEF aims at removing obstacles

to free movement for couples within the EU and at improving certainty and predictability within a couple's legal relationships by way of (i) comparative research on the ambit of party autonomy in family and succession law, (ii) development of a set of information sheets and model templates to facilitate the use of party autonomy, and (iii) a strategy for awareness-raising among couples in the EU and their legal advisers. The panel will focus on the first draft set of information sheets and model templates prepared by the working team.

Vulnerable Adults and the Conflict of Laws (8 September, 16:00)

Vulnerable adults are adults who are temporarily or permanently unable to protect their welfare and/or their financial affairs. While the life-span of humans grows ever longer, this group also steadily increases. Everyone is potentially a vulnerable adult. This panel will discuss the possibilities for an ELI project in the field.

A potential ELI project in this area would focus on suggesting ways to harmonise European legislation in the area, which is fragmented at the moment. It could also consider issues such as the means of empowering a representative to handle one's affairs, welfare and property and on what measures need to be taken for such instruments to be recognised in other Member States.



Digital Single Market: Discussion Draft of a Directive on Online Intermediary Platforms (9 September, 9:00 and 11:00)

Two panel sessions will deal with the rise of the 'platform economy'. The digital economy is increasingly shaped by online platforms serving as marketplaces where customers can buy goods or book services (e.g. Airbnb, Uber, Amazon Marketplace). The purpose of the panels is to discuss the need to adjust consumer law and contract law to the changing market structure caused by the rise of the platform economy. A model for a new legislative instrument – possibly a 'Platform Directive' – will be presented.

Such a Platform Directive could define the criteria for distinguishing whether a platform operator is only a 'facilitator' or the actual supplier. In addition, it could specify the duties and obligations of the platform operator, making it clear under which conditions the operator may be liable for a non-performance by the supplier. Specific regard will be given to the question "what are the basic requirements for transparency and fairness of online reputation systems (e.g. ratings and reviews), which are a key feature of many online platforms?"

The Tools of the Digital Age in the Service of More Accessible Justice (9 september, 11:00)

During this panel session, digital access to justice will be discussed, not only access to the judiciary, but also access to legal services as such. The ELI started cooperating in the E-CODEX project (e-codex.eu), which is aimed at improving the cross-border access of citizens and businesses to legal services and the interoperability between legal authorities. The panel discussion aims to address some of the main challenges that the use of technology brings to justice. Some of those challenges, which are of particular relevance to civil and commercial as well

as criminal legal practice, will be discussed in detail.

The discussion will focus on such questions as the impact of IT processes on the law (are IT developments going to set the law?), how to create trust in digital solutions (after creating a digital platform, information must remain correct and data must be kept up-to-date), what could be done better at an EU level and what should remain the responsibility of Member-States, and how can the use of clear and coherent legal terminology facilitate the building of digital tools for legal practice?

Digital Single Market: European Developments after the withdrawal of the CESL-proposal (9 September, 14:00)

After the proposal for a Common European Sales Law was withdrawn, the European Commission presented its strategy on the Digital Single Market (DSM). The ELI responded with a second supplement to the ELI statement on the CESL proposal that sets out recommendations on how to further develop the DSM. On 9 December 2015 the European Commission introduced two proposals for directives on sales law in the Digital Single Market (the DSM instruments). If accepted, these proposals will present the first step towards a harmonised, modern European sales law, even if their scope is limited to online and distance sales on the one hand, and digital content on the other. If finally approved, the proposed instruments will have a huge impact on the daily dealings of European citizens, as ever more contracts are concluded through the internet. The ELI group has been working on providing a constructive criticism and recommendations on how to improve these proposals to the greatest extent possible.

The panel will consider these important developments and aim at discussing the recommendations of the working group to amend and improve the proposed DSM instruments.



[Agenda](#)

[Registration](#)

[Hotels](#)

The Principled Relationship of Formal and Informal Justice through the Courts and Alternative Dispute Resolution (9 September, 9:00)

Well-structured, consent-based ADR mechanisms can and should complement formal justice systems. If they do so they can deliver fair, cost-effective, timely and, most importantly, just dispute resolution, facilitating access to justice rather than hindering it.

The ELI-ENCJ joint Project seeks to examine the development of ADR in Europe, in particular the EU instruments currently in place and their implementation.

This includes identifying gaps, overlaps, discrepancies, and contradictions between the various instruments. It seeks to ascertain whether, and to what extent, ADR systems in individual Member States reduce access to national justice systems. And it seeks to identify the proper relationship between formal justice systems, ADR and the role of the judiciary in respect of both; seeking thereby to promote a proper understanding of ADR, its application and limits, by policy-makers, the legal professionals and citizens.

The panel will discuss the project's aims and methodology and will identify the main problems and difficulties that ADR faces in Europe. The panel will also consider the main themes of a joint position paper of the ELI and ENCJ, which the Project Team seeks to produce as a first concrete step in the development of its ideas.



Registration

Detention of Asylum Seekers and Irregular Migrants and the Rule of Law (9 September, 14:00)

The Treaty on European Union establishes that the rule of law is one of the values on which the EU is founded and one of the principles which the EU is bound to promote in its relations with third countries. Numerous principles and standards on detention of asylum seekers and irregular migrants developed by the case law of the CJEU and ECtHR and the norms offered by the EU legislation in place, may pose a challenge to the harmonised application of common standards in detention cases for judges across the EU Member States.

The ELI's project aims to contribute to an effective

implementation of the existing EU law, including due process standards and material conditions for detention by offering to the attention of national judges a set of user-friendly and well-referenced check-lists, each complemented by an explanatory note with additional clarification of contentious issues in relation to detention under the Dublin III Regulation, the Returns Directive and the Reception Directive.

The panel invites participants to discuss the first draft of the ELI Statement on "Detention of Asylum Seekers and Irregular Migrants and the Rule of Law".

ELI-UNIDROIT Project on Civil Procedure presented and discussed in Budapest

Upon the invitation from the Hungarian Ministry of Justice, the Hungarian Academy of Sciences Institute for Legal Studies, and the National Office for the Judiciary, the representatives of the ELI-UNIDROIT project on civil procedure participated in the event devoted to the model European rules of civil procedure and the new Hungarian Civil Procedure Act. Over 90 esteemed legal experts attended the Conference, which proved fruitful for both ELI-UNIDROIT Working Groups and Hungarian experts.

The two-day event took place in Budapest and was hosted by the Hungarian Academy of Justice. Numerous guests and representatives of various Hungarian legal authorities gathered to discuss such aspects of modern rules of civil procedure as service and due notice of proceedings, obligations of the parties, lawyers and judges, access to information and evidence, *res judicata* and *lis pendens*, and provisional and protective measures. These five topics correspond to the established ELI-UNIDROIT Working Groups, which are working on developing draft European rules in these respective areas.

The structure of the Conference was built upon the division of the five ELI-UNIDROIT Working Groups, with each panel session featuring two presentations, one devoted to the ELI-UNIDROIT side and another to the Hungarian perspective.



Diana Wallis

Diana Wallis, President of the ELI and a member of the ELI-UNIDROIT Steering Committee, presented the concept of the European Model Rules of Civil Procedure, while István Varga, Professor of the University of ELTE, presented the concepts behind the new Hungarian Act of Civil Procedure.

Professor Anna Veneziano, UNIDROIT Deputy Secretary-General, made an opening speech underlining that the project's significance has been in getting visibility not only from academia, but also from the judicial, governmental and practitioners' environment. She also mentioned that the project



Neil Andrews

had attracted interest of EU institutions, such as the European Parliament and the European Commission.

Renowned experts and reporters of the ELI-UNIDROIT project, Professors Astrid Stadler, Alan Uzelac, and Neil Andrews, spoke on behalf of their Working Groups explaining the methodology applied to their work and the challenges of working with several legal models, while trying to combine the best solutions in one unified approach to civil procedure.

The Hungarian counterparts, Mr Kapa Mátyás, Professor Sándor Udvar, Professor Lilla Király, Professor Lajos Wallacher, and Dr Adél Köblös, presented the respective parts of the new Hungarian Civil Procedure Act and exchanged views based on their experience with the ELI-UNIDROIT experts.

In his closing remarks, Professor Cornelis Hendrik van Rhee acknowledged that both differences and similarities of legal traditions are taken into account by the ELI-UNIDROIT project and played a very important role in the development of model rules of European civil procedure. He emphasised that the similarities, which had been identified lead to "deformalisation" of the civil procedure, which is seen rather positively. András Osztoivits, Judge of the Hungarian Supreme Court, highlighted in his closing remarks the importance of the knowledge of comparative law and dialogues such as this Conference, as without them, it is very difficult to draft a new code of civil procedure. In this sense, he noted that the observance of the work developed by the European jurists of the ELI-UNIDROIT Project Team has been especially helpful and relevant.



This project is co-funded by the European Union

Public Workshop of the ELI Project on Empowering European Families in Vienna

On 14 June the Working Team of the ELI Project “Empowering European Families - Towards More Party Autonomy in European Family and Succession Law” presented the interim results of the project at the Public Workshop entitled “Choice of law and choice of court for family related disputes” in Vienna.

The aim of the Workshop was to present the first results of the ELI project to the wider public, to receive a constructive criticism concerning the initial outputs of the project as well as to further deliberate on the possibilities of improving the legal situation of international couples in the EU.



Christiane Wendehorst and Wendy Schrama

The project was presented to the participants by Christiane Wendehorst and Wendy Schrama, two of the three project

leaders. A representative of the EU Commission, Mr Wolfgang Bogensberger, introduced the most recent legislative developments in the area of Family Law at the EU level.

Other esteemed European experts in the field of international private and family law discussed topical issues such as the law and jurisdiction applicable to divorce and legal separation as well as to property relations, maintenance and pension rights. Professor Bea Verschraegen from the University of Vienna, and Professor Elena Bargelli from the University of Pisa and Chair of the MCC, presented their critical analyses of the draft template of the Model Agreement for Married Couples.

The event also featured a round table discussion entitled “International couples in the EU – How to improve their legal situation?” with the participation of some of the national correspondents of the project as well as the representative of the European Commission and of the Austrian Federal Ministry of Justice.

Other important issues, such as jurisdiction and applicable law with relation to registered



Panellists during the Public Workshop

partnerships and informal couple relationships were presented and discussed.

The ELI Family Law Working Team meeting

The day before, on 13 June, the Working Team met in Vienna with the Advisory Committee to share the interim results and discuss the progress of the Project.

The goal of the ELI Project “Empowering European Families - Towards More Party Autonomy in European Family and Succession Law” is to reduce obstacles faced by international families and to facilitate free



Public Workshop on Choice of law and choice of court for family related disputes

movement of citizens by providing better certainty and predictability of results and reducing the costs of litigation in matters of family and succession law. It also aims at promoting the use of family mediation in the EU.



This project is co-funded by the European Union

The Project Team of the ELI Project on Criminal Law met in Luxembourg

The Team for the ELI Project on “Prevention and Settlement of Conflicts of Exercise of Jurisdiction in Criminal Law” held a meeting in Luxembourg on 21 and 22 June. The meeting was convened at the University of Luxembourg’s Faculty of Law, Economics and Finance.

The meeting was attended by the Project Reporters, many members of the Project Team, a representative from the European Commission, a representative of Eurojust and three members of the ELI Advisory Committee. It was a very productive meeting that will undoubtedly result in drafts that will provide policy makers with clear choices and options to tackle the difficult problem of conflicting criminal jurisdictions.

The Project Team has identified three groups of possible regulatory approaches, or normative models, that can be used to prevent conflict of jurisdiction in criminal law. The Project Team has composed a concept paper that describes each option, and the different factors that require consideration within each model, in detail. The Team is working on three legislative drafts, each corresponding to one of the normative models.

The aim of the meeting was to discuss and work on the three drafts. Professor Katalin Ligeti introduced a draft to a directive based on horizontal settlement of conflicts. According to the draft, conflicts would be settled by consultation between the relevant



Participants of the Project Team meeting

Member States concerned.

Professor John Vervaele explained the second draft to a regulation based on vertical settlement of conflicts. Under this draft, conflicts would be settled by a binding decision of Eurojust if the consultation between the Member States lead to no result.

Finally, Professor André Klip introduced a draft regulation based on territorial jurisdiction in the Area of Freedom, Security and Justice. This draft establishes rules for the allocation of the exercise of territorial jurisdiction.

The meeting was a very productive one. Many of the most pertinent policy issues were discussed in depth and great progress was made.

**Join Criminal
Law MCC**

Preliminary results presented at ERA seminar in Trier

The ELI Project on Criminal Law was presented at the ERA seminar on “Conflicts of Jurisdiction in Cross-Border Criminal Proceedings” in Trier on 12-13 May. Professor Katalin Ligeti introduced the work of the ELI Project Team in developing a new legal framework for the prevention and resolution of conflicts of jurisdiction in criminal matters, while Professor Vervaele presented a critical assessment of the current EU legal framework for conflicts of jurisdiction, which consists mostly of the Framework Decision 2009/948/JHA, the Eurojust Decision and special regulations for extradition.

The ERA event was a perfect opportunity to present the recent developments on this ELI project and to further deliberate on the principle of *ne bis in idem* in the context of the EU acquis and the case-law of the CJEU.



Katalin Ligeti

2nd meeting of the ELI Project Team on migration

On 6 June, the ELI Project Team convened for its second meeting, which took place in Vienna. Bostjan Zalar, Pamela McCormick and Maria-Teresa Gil-Bazo met to discuss issues concerning detention under the Dublin III Regulation and the European Convention on Human Rights (ECHR), including due process standards and conditions for detention under Articles 3 and 5 of the ECHR. The team members also reviewed preliminary drafts of sections of the upcoming ELI Statement on the Interplay of EU Law, the ECHR and national law in the context of the Protection of Human Rights, and Detention and the Rule of Law.



Maria-Teresa Gil-Bazo, Pamela McCormick and Bostjan Zalar

The meeting's aim was to focus on contentious aspects of the drafts submitted by the members earlier this year, as well as to plan important upcoming project-related events ahead. The ELI draft Statement will be presented at the ELI Annual Conference 2016. The detailed programme of the Conference and other useful information can be found [here](#).

Presentations in events

The Chair of the Project, Bostjan Zalar, presented the

judicial perspective and interim results of the ELI Project at the [ERA Annual Conference on European Migration Law](#) on 16 June.

In the broader framework of the Conference's focus on return, Judge Zalar explained the fundamental constituents of the notion of detention, including the permissible grounds for detention, the basic principles such as an obligation to keep records on detention cases, the requirement of the control of the quality of law on detention, as well as the basic standards applied to detention cases. The standards constitute a substantial part of the upcoming ELI Statement, which will comprise, among others, three Check-lists on Detention under the Dublin III Regulation and the ECHR, Detention under the Reception Directive (recast) and the ECHR, and Detention under the Return Directive and the ECHR. The three Check-lists will be accompanied by user-friendly explanatory notes providing additional information to be used by national judges across Member States.

The goal of the Conference, which gathered representatives of the main organisations and institutions working in the field of migration (Council of the EU, European Commission, ECtHR, Frontex, UNHCR) as well as experts representing academia, was to discuss the preliminary results of the EU plan to strengthen its ability to return irregular migrants and refused asylum-seekers as well as to enhance cooperation and mutual trust between Member States and with third countries.



Bostjan Zalar at ERA Conference

The preliminary results of the ELI Project were also tested at a workshop organised by the Centre for

Judicial Cooperation of the European University Institute, in the framework of the project “Active Charter Training Through Interaction of National Experiences”, which took place in Florence on 27-28 June.



ELI Project Team members Bostjan Zalar and Marc Clément were invited to give presentations on the “Legality of detention of asylum seekers and irregular migrants with Articles 6, 47 EU Charter and Articles 5 and 13 ECHR – introducing the ELI checklist”, and the “Judicial dialogue in the field of the right to good

administration – the French perspective”. Member of the ELI Advisory Committee of the Project, Professor of the EUI, Fabrizio Cafaggi, opened the Workshop with a welcome address and chaired the session devoted to the topic of the “Role of European Judiciaries in the migration crisis. Bringing the future into the present”. Another member of this Advisory Committee, Adriano Silvestri (European Union Agency for Fundamental Rights), gave a presentation on the application of the Charter of Fundamental Right of the European Union in the field of asylum.

The members and Advisers of the ELI Project then took part in various hands-on workshop activities, including the test of one of the Check-lists under the Dublin III Regulation and the ECHR and its explanatory notes.

**Join Migration
MCC**

Meeting on the ELI-ENCJ joint project on ADR in Brussels

The working group of the joint project that the European Law Institute (ELI) runs with the European Network of Councils for the Judiciary (ENCJ) met in Brussels on 23 May. The aim of the meeting was to define the scope of the joint project, entitled “The Principled Relationship of Formal and Informal Justice through the Courts and Alternative Dispute Resolution”, which was approved by the ELI Council on 12 February 2016. The meeting also aimed at discussing the methodology to be applied and the form of possible outcomes.

The meeting was hosted by the ENCJ at its Brussels offices and attended by Lord Justice Geoffrey Vos, judge Lourdes Arastey Sahun, Judge Stanislava Georgieva, Justice John Hedigan (from the ENCJ side) and Diana Wallis, John Sorabji, Ales Zalar, Professor Camilla Bernt (from the ELI side). It was felt that



Participants of the ELI-ENCJ meeting

the distinguished group is well suited to the task and that the joint ELI-ENCJ Project has an actual opportunity to make an important contribution to how European justice is administered.

ELI President Diana Wallis, heading the team from the ELI side, stated that it was a very positive first meeting of this project looking at the domain of the judge and ADR. She further stated that the ELI and ENCJ would be aiming at producing a joint position paper by the end of 2016.



Join an MCC and contribute directly to the work of the ELI on projects!

Members Consultative Committees (MCC) are established as a means to give all ELI members the opportunity to directly have a say in the development of ELI Projects. In the last few months, MCCs have been established for the ELI Projects on:

- **Family Law**
- **ADR**
- **Migration**


 A blue rounded rectangular button with the text "Join MCC" in white, bold, sans-serif font.

If you are interested in following these Projects closely, receiving regular updates and participating in discussions with Project Reporters and Project Teams, you are welcome to send an [e-mail](#) to the ELI Secretariat expressing your interest in joining the MCC of these Projects.

The MCC of a Project comments on the Project plan and on preliminary Project results that may be available. Any ELI Member who is interested in actively contributing to the development of a Project can join the MCC, irrespective of the Member's status as a Fellow, Individual Observer or Institutional Observer. There is no limit to the number of Members who can participate, and MCC members need not be experts in the relevant field.

MCC members come from various legal professions and specialise in different areas of law. It is exactly this diversity which enriches the debating potential of the MCC and makes its contribution so valuable.

Joint meeting of ELI and E-Codex representatives in Vienna

On 20 June a meeting took place at the ELI Secretariat in Vienna between representatives of the E-Codex Group and of the ELI. From the E-Codex side, Ernst Steigenga, who's responsible for the Dutch contribution to e-CODEX and presented the project at the ELI 2015 Annual Conference in Vienna, participated at this meeting together with Natalie Nickel, Deputy Coordinator of the E-Codex project, Robert Behr, from the Austrian Federal Computing Centre (BRZ), and Thomas Gottwaldt, from the Austrian Ministry of Justice. Representing the ELI were members of the Executive Committee Sjef van Erp and John Sorabji, and Secretary General Rosana Garcíandía.

During the meeting, ELI and E-Codex representatives discussed the main aspects of this project, which aims at improving the cross-border access of citizens and businesses to legal means in Europe, as well as at improving the interoperability between legal authorities within the EU (click [here](#) for more information about E-Codex). The project has developed technical tools that would facilitate

security in the exchange of legal information between EU countries as well as semantic interoperability within other aspects. During the discussion some of the challenges this project encounters were also identified.



The meeting was a good opportunity to discuss the best possible way the E-Codex group and the ELI could cooperate in the near future. The ELI is an associate partner to the second phase of this project, the so called Me-Codex, which will hopefully contribute to facilitating access to justice in Europe. The use of technology in justice, and especially in cross-border cases, is already showing some of the challenges that the European legal community needs to address. A panel discussion at the upcoming ELI Annual Conference will raise some of them.

Very active months for ELI Hubs!

The ELI Hubs are structures through which ELI members can meet closer to home, communicate in their native language, discuss current or upcoming projects, and generate ideas for future ELI activities. We are very pleased to report that our Hubs have been very active this Spring!

Successful launch of the ELI Spanish Hub

On 9 May, the ELI witnessed the launch of the Spanish Hub. The event, which took place in the Centre for Political and Constitutional Studies, was opened by the Centre's Director, Benigno Pendás, and by President Diana Wallis. They both highlighted the distinctively challenging moment that Europe faces and underlined the role that the European legal community has to play in responding to those challenges. One of the coordinators of the Spanish Hub, Carmen Jerez Delgado, Professor at the Autonomous University of Madrid and member of the ELI Council, led the event through its agenda. Professor Rafael Illescas, member of the ELI Council, presented the ELI to the audience as an expert, who has been involved in it since its creation.



Rosana Garcíandía, Albert Ruda, Juan Luis Requejo Pagés

The first round table of the event focused on the interaction between European law and Spanish law, and counted on the participation of Encarnación Roca Trías, Magistrate of the Spanish Constitutional Court, Théophile M. Margellos, President of the OHIM

Meeting of the ELI French Hub

On 8 June, an event of the French Hub took place at the renowned premises of the Conseil d'Etat, one of the ELI's Institutional Observers. The event aimed at providing a forum for discussion within the French ELI community on the current and potential future projects of the ELI. Many French ELI fellows joined the event, where, among other institutions, the Paris Bar, the French Council of Notaries and the Catholic University of Law of Lyon were represented.



Diana Wallis, Carmen Jerez Delgado

Boards of Appeal, and Professor Ángel Carrasco Perera, Professor of Private Law at the University of Castilla-La Mancha.

The second round table was chaired by Albert Ruda, coordinator of the Spanish Hub, Associate Professor at the University of Girona and member of the ELI Council. This part of the event included presentations by Juan Luis Requejo, Legal Secretary at the CJEU and Professor of Constitutional Law, and by the Secretary General of the ELI, Dr. Rosana Garcíandía, who gave the audience an overview of the way the ELI works on a daily basis. More information is available [here](#).

Member of the ELI Senate, Jean-Marc Sauvé welcomed participants in the General Assembly Hall of the Conseil d'Etat. In his introductory speech he emphasized the need for French lawyers to be involved in European legal debates and suggested some ideas for further work of the ELI, such as extraterritoriality of law.

After the introduction, President Diana Wallis took

the floor to present some of the current ELI projects. She particularly referred to the ELI-UNIDROIT joint project on civil procedure, highlighting its interest for legislators. Bénédicte Fauvarque-Cosson, Professor at the University Panthéon Assas, Paris, and former Vice-President of the ELI, then focused on the latest European developments in the field of digital law, as well as on the contribution of the ELI in this topical area of law.

Member of the ELI Executive Committee, Marc Clément presented the ongoing ELI project on “Detention of asylum seekers and irregular migrants and the rule of law” and emphasized its topicality. He explained that the aim of the Project is to contribute to an effective implementation of due process standards and material conditions for detention based on an integrated approach in respect of EU secondary law, case-law of the CJEU and case-law of the ECtHR in judicial practices of the Member States.

Christiaan Timmermans, former judge of the Court of Justice of the European Union and a founding member of ELI, focused his presentation on the

ELI German Hub Event in Frankfurt am Main on “Uniform Sales Law and Unified Application of Law”

The German Hub of the ELI, the Ernst von Caemmerer Foundation and the Goethe University Frankfurt am Main co-hosted a conference on “Uniform Sales Law and Unified Application of Law” (“Einheitliches Kaufrecht und Vereinheitlichung der Rechtsanwendung”) in Frankfurt am Main on 4 March. The conference focused on different aspects of these efforts and extended to both the CISG and EU private law.

The event brought together distinguished speakers from several countries and about 60 participants. Among the speakers were Uwe Blaurock (Freiburg),

ELI Italian Hub to be launched in September

The 10th ELI Hub will be launched on 9 September 2016 in Ferrara, alongside the ELI Annual Conference and General Assembly. This unique event will be held at the premises of the Department of Law of the University of Ferrara and will gather esteemed



Participants of the ELI French Hub meeting

challenges of administrative law at the European and national levels. He underlined that there is a need to organise and clarify the various sources of administrative law. Many questions and reactions from the audience showed a great interest from the French legal community in getting involved in the work of the Institute. The meeting was an opportunity for French legal experts from diverse professional backgrounds to exchange views on the ELI’s work, as well as on the different possible ways to get involved in the development of European law.



Thomas Kadner Graziano (Geneva), Franco Ferrari (New York), Burghard Piltz (Hamburg), Hannes Rösler (Siegen), ELI Vice President Christiane Wendehorst (Wien) and Felix Maultzsch (Frankfurt am Main).

For the full report, please visit our [website](#).

Italian jurists. The Agenda of this event is already available and you can access it [here](#).



The ELI participated in the launch of the EU-China Legal Affairs Dialogue

The first meeting within the Framework of EU-China Legal Affairs Dialogue (LAD) took place on 18-22 June in Beijing and the ELI was very well represented. The EU delegation was chaired by EU Commissioner Věra Jourová and composed of the Director General of DG Justice, Tiina Astola, and Head of Unit in Contract Law, Dirk Staudenmayer, as well as the ELI President, Diana Wallis, Vice-President, Christiane Wendehorst, and ELI Council member Friedrich Graf von Westphalen.

The start of this crucial Dialogue comes at a moment when the Chinese State Legislative Council is looking at a new e-commerce law just as the EU is considering the two European Commission's proposals on sale of digital goods and on-line sale of tangible goods. The ELI's work in these areas has been acknowledged by European institutions as being very pertinent. The meetings with the Chinese delegation provided an excellent opportunity to exchange views on many legal issues, including digital content, dispute systems and the Internet of things, and to begin to explore what legislative convergence might be possible.

The visit of the EU delegation to China aimed at



Christiane Wendehorst and Diana Wallis at the launch of EU-China LAD

initiating an EU-China Legal Affairs Dialogue (LAD), an extremely important step towards a better mutual understanding of the European and Chinese legal systems as well as a necessary feature enhancing EU-China cooperation. A second meeting within the LAD Framework will be held in Brussels next year. Vice-President Wendehorst was invited as an expert and for the University of Vienna, the only European university represented in this dialogue, and Friedrich Graf von Westphalen participated in his capacity as a member of the CCBE. Participation of these leading ELI members in an EU delegation proves that the work of the Institute is acknowledged and highly appreciated by the European Commission.

The ELI President's activities

On 5-6 May, the ELI President Diana Wallis participated in an IP Case Law Conference entitled "Substantive and Procedural issues of Trade Mark and Design Dispute Resolution". The event was organised by the European Union Intellectual Property Office (EUIPO) in Alicante, Spain.



Diana Wallis at the IP Case Law Conference

Diana Wallis participated in a panel on Effective Administration of Litigation Proceedings, chaired by Sir Nicholas Forwood QC, former Judge of the General Court, CJEU and spoke about "Effective

dispute resolution methods".

On 2-3 June, Diana Wallis represented the Institute at the General Assembly of the European Network of Councils for the Judiciary (ENCJ), an ELI Institutional Observer, held in Warsaw. The title of this year's Assembly was "The Future of Justice in Europe". Esteemed panelists from all over Europe discussed the possible directions in which the justice system might develop.

Diana Wallis spoke about the future of co-operation in the EU Justice Sector. President Wallis was joined in this panel by Koen Lenaerts, President of the Court of Justice of the EU, who presented his views on the future of Judicial Dialogue in Europe as well as by David Kosař, Assistant Professor at Masaryk University, who discussed the future of Councils for the Judiciary and self-governance.

On 30 June, Diana Wallis travelled to Brussels to take part in a meeting with E-Justice stakeholders on “E-Communications in cross-border judicial

proceedings” organised by the Council of the European Union. a more detailed report will soon be available on the ELI [website](#).

ELI featured at XXVII FIDE Congress by its former President, Sir Francis Jacobs

On 18-21 May, Budapest was host to the XXVII FIDE Congress where Sir Francis Jacobs, former President of the ELI (2011-2013) and current member of the ELI Senate, not only participated as one of the esteemed speakers but also took the opportunity to give the audience a presentation about the European Law Institute and its crucial role in the development of European Law.

Sir Francis Jacobs, who served as an Advocate General of the Court of Justice of the European Union from 1988 to 2006, chaired a plenary panel session on The Transatlantic Trade and Investment Partnership negotiations and its consequences to the European Union. Attended by esteemed legal experts, the Congress was a great opportunity for the ELI to be presented by its former President. Sir Francis spoke about the ELI’s current projects and



Sir Francis Jacobs at the XXVII FIDE Congress

emphasised the vital role that National Hubs and Special Interest Groups (SIGs) play in advancing the Institute’s work.

FIDE is the International Federation for European Law (Fédération Internationale pour le Droit Européen) and its biannual Congress brings together around 500 jurists from all over Europe.



Secretariat of the ELI

Schottenring 16, Top 175
1010 Vienna
Austria

Phone: +43 (0)1 4277-221 01
Fax: +43 (0)1 4277-9221

secretariat@europeanlawinstitute.eu

The ELI mission

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