



# ELI

EUROPEAN  
LAW  
INSTITUTE

# ELI Updates

## September – October 2017

### MESSAGE FROM CHRISTIANE WENDEHORST, NEWLY ELECTED PRESIDENT OF THE ELI



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Dear Members and Friends of the ELI

I have had the great honour of being elected the new European Law Institute (ELI) President and of receiving your mandate to guide this Institute through the next chapter of its existence. While being aware that, following Sir Francis Jacobs and Diana Wallis, I will be stepping into enormously big shoes, I confidently accept the challenge because I know I can count on the expertise of wonderful colleagues in the new Executive Committee and Council, on the support of an excellent Secretariat, and on a vibrant and committed ELI Membership.

Facing a mandate of 24 months, I have drawn up, for myself, a long list of strategic goals I would like to achieve for the ELI during my term as President. One of my first steps has been to resume negotiations with Oxford University Press about an ELI Publication Series, and I am pleased to report that the ELI has just signed its first contract for a volume entitled 'Conflicts of Criminal Jurisdiction' that will feature the ELI Instrument on the latter theme as well as important background research coordinated by the Luxembourg Team. Further publication contracts will be signed soon.

A point that has been troubling me is the persistent imbalance in ELI Membership, in particular as far as regional coverage is concerned. This is why I plan to target one European country every month and have already travelled to Slovakia and Bulgaria. I will certainly travel to those again and to other countries and try to make sure we do better in tapping into the potential of brilliant lawyers who are committed to our joint vision and prepared to devote their time to the improvement of European law and the building of a vigorous European legal community.

During these first weeks of my Presidency, I have also initiated contact with a number of organisations and made them familiar with the work of the ELI; these do not only include international organisations but also organisations focusing on particular national jurisdictions or on particular areas of law that share our key value of collaborative exchange between judges, legal practitioners, academics, government lawyers and others. More importantly, I have sought as many opportunities as possible to talk with lawyers from all parts of Europe, and I have encountered very different mindsets, very different expectations, and very different attitudes towards the European Union and Europe at large. It will not be an easy task for the Union to meet all these expectations, but I strongly believe that, by giving voice to the whole European legal community, and not only to the 'usual suspects', the ELI can play an important role in meeting the challenges Europe is currently facing.

Let me close by stressing how much I look forward to working with you, as Members of an ever growing 'ELI family', towards our common vision.

Kindest regards  
Christiane Wendehorst

## 2017 Annual Conference and General Assembly: A Report

The ELI held its 2017 Annual Conference and General Assembly from 6–8 September in Vienna (Austria). This event provided a forum for lively discussions to more than 300 guests from five different continents. The Conference, which was co-organised by the City of

Vienna and co-hosted by the University of Vienna, took place at several venues including the palatial Vienna City Hall (Rathaus). Keep an eye on our website for more details about our upcoming Annual Conference in Riga (Latvia) on 5–7 September 2018.

### 2017 Annual Conference



The 2017 Annual Conference, which took place at Vienna's City Hall on the first and second day, was opened by the outgoing ELI President, Diana Wallis, who cordially welcomed the many esteemed participants. She was joined by Heinz W Engl, Rector of the University of Vienna (Austria), who gave a historical insight into the ELI to those assembled:

### Keynote Speeches

On the evening of the first day, participants were invited to an impressive reception at the Austrian Ministry of Justice (Palais Trautson). In his welcome speech, Austrian Vice-Chancellor and Minister of Justice, Wolfgang Brandstetter highlighted the importance of the work of the ELI in fields such as digitalisation and globalisation, both on a national and European level: *'Frequently, issues are being addressed that have not been known before and have not been addressed either scientifically or in legal practice.'*

Director of the European Union Agency for Fundamental Rights (FRA), Michael O'Flaherty delivered the keynote speech on the second day of the Conference. O'Flaherty expressed his approval of the ELI's and the FRA's closer

*'In 2011, the University of Vienna initially decided to fund the ELI Secretariat. Today, we are glad to observe the considerable developments, such as the substantial increase in membership, its excellent international reputation, as well as the important outputs of the Institute. The ELI helps in overcoming legal difficulties, identifying solutions and developing European legislation in all areas.'*

His words were followed by a heartfelt welcome by the Dean of the Law Faculty of the University of Vienna, Paul Oberhammer, who is also actively involved in a number of ELI Projects.

The ELI is particularly grateful to the Federal President of the Austrian Republic, Alexander van der Bellen, for his special message to the ELI's Conference participants. In it, he emphasised the ELI's importance to Austria. His words were delivered by one of his advisers (and former President of the Austrian Constitutional Court), Ludwig Karl Adamovich. To read the full speech, please click [here](#).



Michael O'Flaherty during his speech

ties by pointing to the FRA's decision to join the ELI as an Institutional Observer. He also noted the presence of FRA staff as panellists at the ELI Conference. Significantly,



Lance Liebman, former ALI Director

O'Flaherty underlined the shared commitment of the ELI and FRA to the rule of law and human rights. More information on the FRA can be found on page 13 of this Newsletter.

When the ELI was established in 2011, it was inspired by the activities of the American Law Institute (ALI), which was founded in 1923 in Philadelphia (USA). The ELI was thus especially proud to have the former Director of the ALI, currently Professor at Columbia Law School, Lance Liebman, as a speaker at the Gala Dinner at Palais Niederösterreich on day two of the Conference.

Lance Liebman shared insights into his decades-long career as a Dean of Columbia Law School as well of his time at the ALI.

He expressed his admiration for the development of the Institute and wished the ELI the best for the future.

## A Glimpse into the Conference Panels

As Projects are a central part of the ELI's work, this year's Conference was devoted to a record number of six current Projects, two Feasibility Studies and seven potential Projects. The texts below only highlight a couple of projects. To read more about the others, please click [here](#).

## Current Projects

### Rescue of Business in Insolvency Law (6 September 2017)

The first plenary session was devoted to the 'Rescue of Business in Insolvency Law' Project, where Project Members presented the eponymously entitled draft ELI Instrument. The output of this flagship ELI Project was voted upon by the ELI Council and ELI General Assembly and was almost unanimously approved by voters. The aim of the Project was to design (elements of) a legal framework that will enable the further development of coherent and functional rules for business rescue in Europe. In the words of one of the Project's



This project is co-funded by the European Union



City of Vienna



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Fritz Thyssen Stiftung  
für Wissenschaftsförderung

Reporters, Bob Wessels, 'the ELI Business Rescue Report aims to invigorate current thinking on corporate business rescue. As Europe stands at the doorstep of approximating existing insolvency and restructuring laws, this Report puts forward recommendations to pursue a coherent system for the benefit of all involved stakeholders.' The approved Instrument can be found [here](#).

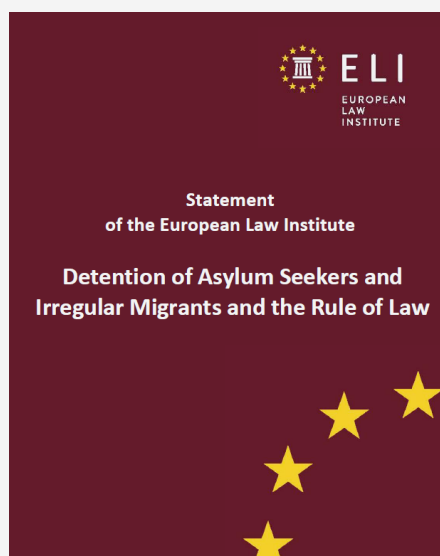
A short report and explanation on the Project's background and aims, as well as an overview of the results reached can also be found [here](#).



## Detention of Asylum Seekers and Irregular Migrants and the Rule of Law (6 September 2017)

Another ELI Project output was successfully voted upon and approved by an overwhelming majority of ELI Council Members, namely the Statement on 'Detention of Asylum Seekers and Irregular Migrants and the Rule of Law'.

Both the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU) have developed extensive case law with regard to detention of third country nationals (TCN) and asylum seekers. Numerous



principles established therein and the norms offered by EU legislation in place, may pose a challenge to the harmonised application of common standards in detention cases for national judges across EU Member States.

The ELI's Project identified due process standards and material law including conditions for detention, designed to enhance the implementation of existing EU law in this field. The approved Statement can be found [here](#).

## ELI Bodies in Vienna (Austria)

### The 2017 General Assembly

*'This is not just a Conference where Project groups present their work – it is you being part of the Project's work.'*

Christiane Wendehorst  
Newly elected ELI President

On the morning of 6 September, Members of the ELI gathered for the ELI General Assembly and were welcomed by the outgoing President, Diana Wallis. The meeting brought ELI Members together for the seventh time since the founding of the Institute in 2011.

During the Assembly, the ELI President, Vice-President, Treasurer and other representatives of ELI bodies reported on the progress and growth achieved by the Institute in the preceding year.

Thereafter, the first winner of the ELI Young Lawyers Award (YLA) was finally revealed by YLA Jury Chair, Robert Bray. Evgenia Ralli, a promising lawyer who studied at the University of Luxembourg, Ludwig Maximilian University of Munich, the University of Trier and Aristotle University of Thessaloniki, took to the stage to present aspects of

her outstanding paper entitled The Principle of Mutual Recognition Based on Mutual Trust and the Respect for Fundamental Rights: The Case of the Framework Decision on the European Arrest Warrant. The full paper can be read online [here](#).

In the morning of 6 September, Members of the Senate and Executive Committee held a joint meeting. Among other things, discussions centred on the Institute's future strategy. Thereafter, the Council, in its outgoing formation assembled inter alia to vote on the approval of completed projects (see above) and the adoption of prospective ones.

Submissions for the 2018 Young Lawyers Award are now being accepted!

More information on the eligibility criteria and requirements can be found [here](#).

## Election of the New ELI Council and Executive Committee

For two days, ELI Members were given the opportunity to elect 30 new ELI Council Members. The current Council consists of a total of 60 elected Members. In accordance with the ELI Election Byelaw, Council elections take place biennially.

The ELI Council is now comprised of the following newly elected Members:

Yannis Avgerinos	Mark Clough	Laura Guercio	Pascal Pichonnaz
Francesco Avolio	Mario Comba	Paola Iamiceli	Reiner Schulze
Elena Bargelli	Andra Cotiga-Racchah	Maria Kaiafa-Gbandi	Matthias Storme
Yuri Biondi	Olga Cvejic Jancic	Ana Keglevic Steffek	John Thomas
Robert Bray	Nada Dollani	Miklós Király	Verica Trstenjak
Christoph Busch	Anne Birgitte Gammeljord	Andries Klip	John Vervaele
Georges Cavalier	Athina Giannakoula	Philip Moser	Friedrich Graf von Westphalen
Nikolaos Chatzinikolaou		Damjan Možina	

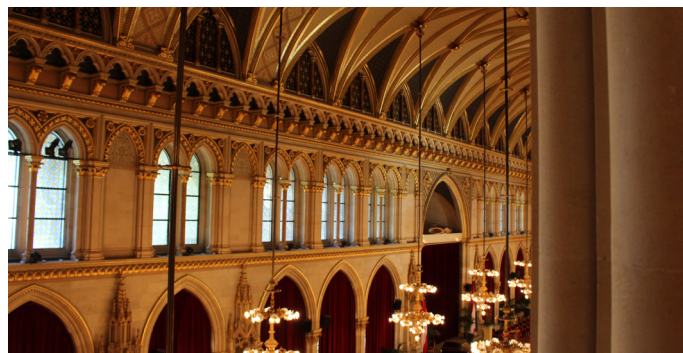
The remaining Council Members, whose mandate lasts until 2019, are as follows:

Christian Alunaru	Sjef van Erp	Corrado Malberti	John Sorabji
Josef Azizi	Johan Gernandt	Maarten Meijer	Harry Stamelos
Christian von Bar	Paul Gilligan	Katharina Miller	Diana Wallis
Hugh Beale	Hrádek, Jiri	Denis Philippe	Christiane Wendehorst
Maja Brkan	Marta Infantino	Meliha Povlakic	Marek Wierzbowski
Remo Caponi	Francisco Javier Jiménez Munoz	Albert Ruda	Boštjan Zalar
Marc Clément	Tatjana Josipović	Raffaele Sabato	Irina Zlatescu
Walter Doralt		Hans Schulte-Nölke	

The ELI Council, in its new formation, was then tasked to elect a new Executive Committee from among its Fellows. Former ELI Vice-President, Christiane Wendehorst, was unanimously elected President of the ELI.

Former Ordinary Member of the ELI Executive Committee, Sjef van Erp was elected Vice-President and Denis Philippe took up the role of ELI Treasurer.

The composition of the Ordinary Members of the Executive Committee is as follows: Anne Birgitte Gammeljord, Raffaele Sabato, Hans Schulte-Nölke and Lord John Thomas.



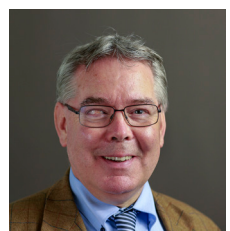
The ELI also welcomes Reinhard Zimmermann as the new Speaker of the Senate.

## Newly Elected Executive Committee



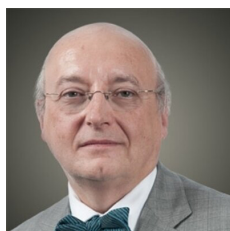
### President

Christiane Wendehorst is Professor of Law at the University of Vienna (Austria). She is a member of the American Law Institute, the Academia Europea, the Austrian Academy of Sciences, the International Academy of Comparative Law and several international research groups. Wendehorst is one of the Founding Members of the ELI and has previously served as Treasurer and Vice President.



### Vice-President

Sjef van Erp is a Professor of civil law and European private law at Maastricht University (The Netherlands), where he teaches foundations of *Ius Commune*, comparative, European and Dutch property law. He is also deputy justice at the Court of Appeals in 's-Hertogenbosch. He is a member of the American Law Institute. Professor Van Erp is one of the ELI's Founding Members.



### Treasurer

Denis Philippe is Professor at the University of Louvain and Visiting Professor at the University of Paris Ouest. He is a lawyer at the Brussels and Luxemburg bar and managing partner of Philippe & Partners. He is one of the ELI's Founding Members.



### Other Members

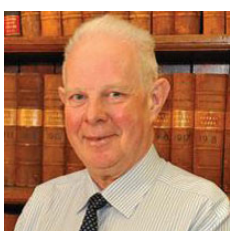
Anne Birgitte Gammeljord is a practising Danish Supreme Court lawyer. She is assistant lawyer in insolvency matters at the Maritime and Commercial Court in Denmark. She previously served on the Disciplinary Committee of the Danish Bar and Law Society and as a member of the Council of the Danish Bar and Law Society. She was President of the Council of Bars and Law Societies of Europe (CCBE) in 2009 and has been a Member of the ELI Council and its Membership Committee since 2012.



Raffaele Sabato is a Justice at the Italian Supreme Court of Cassation. He was appointed as a judge in 1991. He also published and lectured widely on issues in civil, international and EU law, procedural law, mediation and judicial ethics. As an expert of the Council of Europe, he has taken part in initiatives aimed at promoting reforms in legal systems. Mr Sabato has also served as member of the Consultative Council of European Judges since its start in 2000, having been its Chair for two years. He has been a Member of the ELI Council since 2014.



Hans Schulte-Nölke is Professor of Law and Legal History at the European Legal Studies Institute at the University of Osnabrück (Germany), and Professor of Law at the Radboud University Nijmegen (The Netherlands). He is the author of several books and of a large number of articles in several European journals. He regularly advises committees of the European and the German Parliaments as well as national ministries and international organisations. He was also elected to the Academia Europaea in 2016 and is one of the ELI's Founding Members.



Lord John Thomas was a practising barrister in England and Wales until 1996, a Judge of the High Court and Court of Appeal of England and Wales (1996–2013) and then Lord Chief Justice of England and Wales (2013–2017). He was President of the the European Network of Councils of the Judiciary (ENCJ) (2008–2010). He is Chairman of the Welsh Government's Commission on Justice in Wales, Chairman of the UK Financial Markets Law Committee, Chancellor of Aberystwyth University (from January 2018), an Honorary Fellow of Trinity Hall, Cambridge and a Fellow of the Universities of Bangor, Cardiff and Swansea. He is one of ELI's Founding Members.

## Message by the New Speaker of the Senate, Reinhard Zimmermann

The foundation of the ELI was an arduous process. A Conference in Florence (Italy) and the Hamburg Memorandum were important way stations. Ultimately, in April 2010, a statute and a Founding Manifesto were adopted at a meeting in Athens (Greece). In June 2011, the Inaugural Congress took place in Paris (France). The statutory seat of the ELI is Brussels (Belgium), the seat of its Secretariat is Vienna (Austria); and the first President of the ELI was English. All of this reflects the truly European spirit of the ELI. Today, it can safely be said that the ELI has established itself on the international legal landscape as an important hub of ideas and initiatives. Anyone who took part in the Annual Conference and General Assembly in early September 2017 in Vienna could see that. Membership of the ELI is growing steadily; and even if not all ambitions have been fulfilled as yet, as far as diversity of professions, diversity of disciplines

and diversity of legal traditions are concerned, there is cause for optimism for the future. On 7 September, half of the membership of the ELI's Council were either re-elected or newly elected, and immediately afterwards the seven Members of the Executive Committee were chosen, with Christiane Wendehorst as the new President of the ELI. On behalf of the ELI Senate I would like to wish the new Council and its Executive Committee every success: we look forward to a fruitful cooperation. At the same time, I would sincerely like to thank the outgoing members of both Council and Executive Committee for their commitment to the cause of ELI over the past years.'



## Updates on ELI Projects

### Meeting of the Project Team of the ELI-ENCJ Joint Project on ADR in Vienna (Austria)

The Team of the ELI-ENCJ Project on the Principled Relationship of Formal and Informal Justice through the Courts and Alternative Dispute Resolution met on 7 September 2017 in Vienna (Austria), after the panel session devoted to this Project was held at the ELI Annual Conference. During the meeting, the results of the second consultation with stakeholders (this time with judges) and the feedback received at the ELI Annual Conference were analysed. Further, the Team discussed the finalisation of the planned outputs of the Project

– the Statement of European Best Practice in Relation to the Approach that Courts and Judges Should Adopt in Interacting with all Types of ADR Processes and the Recommendations as to the Best European Models that Can be Developed and Applied for Coherent Access to Dispute Resolution Processes (DRPs) in Respect of Different Types of Dispute, and Towards which Member States May Wish to Progress.



This project is co-funded by the European Union

### ELI-UNIDROIT Project From Transnational Principles to European Rules of Civil Procedure Working Group Members of the *Res judicata* and *lis pendens* in Madrid (Spain)

The Members of the Working Group on *Res Judicata* and *Lis Pendens* met 21–22 September 2017 to finalise the draft rules on *res judicata*, make some changes to the contents of the rules, their order and the comments to be drafted. The consistency and terminology of the rules was also considered and in some cases modified. The structure to be followed for the whole draft was discussed. Another part of the meeting was devoted to the rules on

*lis pendens*. Members discussed the issues and situations to be covered (pendency and related actions) and the possible consequences of decisions with regard to stay of

proceedings, dismissals and consolidations. Eventually, a first set of rules on *lis pendens* was drafted. Discussions also started on the comments to be made under these rules.



Working Group Members



This project is co-funded by the European Union



## Working Group Members of the Obligations of Parties, Lawyers & Judges in Pavia (Italy)

Members of the Working Group on Obligations of Parties, Lawyers & Judges came together for the eighth time to work on the draft rules on obligations. The productive meeting took place from 22–23 September in Pavia (Italy) in the Collegio Boromeo.

This Working Group has produced a set of rules, following eight meetings, which were held in Maastricht (the Netherlands) in February 2015, Dubrovnik (Croatia) in June 2015, Maastricht and Leuven (Belgium) in November 2015, Pavia in February 2016, Dubrovnik in May 2016, Pavia (Italy) in September 2016 and Paris (France) in November 2016. The discussion focused on the matters deriving from the comments ELI and UNIDROIT received at an earlier meeting in April in Rome (Italy). Those attending the meeting also considered various issues, not only in respect of the commentary but also textual refinements, with the objective of producing a precise and concise set of rules and explanatory notes.



Working Group Members

The Members of the Working Group will have an opportunity to gather one more time this year, on the occasion of the joint ELI-UNIDROIT meeting in Vienna (Austria), which will take place from 16–17 November 2017.



This project is co-funded by the European Union

## Presentation of the ELI Statement on Detention of Asylum Seekers and Irregular Migrants and the Rule of Law in Trento (Italy)



ELI Council Members Fabrizio Cafaggi, Paola Iamiceli and Boštjan Zalar

ELI Project Reporter Judge Boštjan Zalar took part in a roundtable entitled Check-lists and Other Instruments for a More Effective Judicial Practice in the Field of Asylum and Immigration Detention during the [Re-Jus](#) Transnational Training Workshop, organised by the University of Trento. The event took place from 2–3 October 2017 in Trento (Italy).

Judge Boštjan Zalar presented the ELI Statement on Detention of Asylum Seekers and Irregular Migrants and

the Rule of Law and gave an overview of the work as well as goals of the ELI. The roundtable was chaired by Fabrizio Cafaggi, a Special Advisor of the aforementioned ELI Project.

The focus of this two-day workshop was on the present and future challenges to the full implementation of the right to fair trial and effective remedy enshrined in art 47 of the EU Charter of Fundamental Rights. Legal practitioners from a wide range of EU Member States gathered in Trento to discuss current issues in the implementation of EU asylum and immigration law. For more information on this event organised by the University of Trento, please click [here](#). Judge Boštjan Zalar will also give a presentation on a related topic, at the Regional Conference for Legal Aid Providers, on legal assistance to asylum seekers and refugees on 30–31 October in Chisinau (Moldova), the European Judicial Training Network (EJTN) Seminar on 2–3 November 2017 in Stockholm (Sweden) and the European Asylum Support Office (EASO) Transnational Seminar on 20–21 November 2017 in Malta.



## Meeting of the Empowering European Families Project Team in Utrecht (the Netherlands)

Members of the Empowering European Families (EEF) Working Group held the 3rd meeting of Workstream 3 on 22–24 October to review the progress of the current EEF project at the Molengraaff Institute for Private Law. During the two-day meeting the Working Group discussed and produced a contract checklist and template for legal advisors. Further, the Group analysed Workstream 3 country reports and discussed awareness-raising strategies.

### 30 November–1 December 2017: SAVE THE DATE! Legal Advice to International Couples in Europe Conference in Trier (Germany)

#### Thursday, 30 November 2017

09:00 Welcome

*Angelika Fuchs, ERA*

#### I. INTRODUCTION

09:05 International couples in the EU: existing legal instruments and remaining problems

*Christiane Wendehorst*

09:45 The idea of model contracts and general approach of the EEF templates

*Wendy Schrama*

#### II. MARRIAGES AND REGISTERED PARTNERSHIPS

11:00 Choice of law and choice of court

*Dieter Martiny*

11:45 Matrimonial/partnership property and family home

*Josep Ferrer i Riba*

14:00 Maintenance and pension rights

*Elena Bargelli*

14:45 Case workshop: how to use the checklists for legal advisors

*Tim Amos and François Trémosa*

16:00 Panel discussion: party autonomy and protection of the weaker party

*Katharina Boele-Woelki (Chair)*

*Tim Amos*

*Margareta Brattström*

*Josep Ferrer i Riba*

*François Trémosa*

#### Friday, 1 December 2017

#### III. INFORMAL RELATIONSHIPS

09:00 Informal relationships in the EU: comparative overview

*Matthias Neumayr*

09:45 Informal relationships: issues at stake, choice of law and choice of court

*Anne Barlow*

11:00 Property relations, unjust enrichment and relationship-generated disadvantages

*Alain Laurent Verbeke*

11:45 Panel discussion: awareness raising and encouraging use of party autonomy

*Dieter Martiny (Chair)*

*Robert Bray*

*Magdalena Habdas*

*Eve Pötter*

12:45 Closing remarks

*Wendy Schrama and Christiane Wendehorst*

13:00 End of the conference

**Conference Fee:** € 75 (including all meals and a limited supply of drinks)

**To register:** click [here](#).



Co-funded by the Justice Programme of the European Union

## 8 November 2017: SAVE THE DATE! Collective Redress Procedures in Human Rights Claims Against Businesses in London (UK)

Business & Human Rights: Access to Justice and Effective Remedies was one of several prospective ELI Projects that were featured in the last ELI Annual Conference. To elaborate on the framework of this potential Project further, the ELI, the British Institute of International and Comparative Law's (BIICL) and FRA have come together to organise the above event. The event will focus on the role of collective claims in business and human rights litigation, examine the recent developments in this sphere and cover substantive law, procedural issues and practical topics such as funding and costs. The event is also part of British Institute of International and Comparative Law's (BIICL) ongoing projects on collective redress as well as business and human rights.

### Chair

*Diana Wallis*, Former President of the ELI

### Speakers

*Deba Das*, Freshfields Bruckhaus Deringer

*Jonas Grimheden*, European Union Agency for Fundamental Rights

*Daniel Leader*, Leigh Day

*Rachael Mulheron*, Queen Mary University of London

Event co-organised by the BIICL, the ELI and the FRA.

### Pricing and Registration

BIICL and ELI Members:	Non-members:
Individual £40	Individual £70
Concession £25	Concession £45
Student £15	Student £25

NB: A limited number of free places are available for staff of government and NGOs. If no free places remain, the concession rate applies.

### Date

Wednesday, 8 November 2017 from 17:00–19:00

### Venue

British Institute of International and Comparative Law

Charles Clore House, 17 Russell Square

London WC1B 5JP



Find out more and book online click [here](#).

## European Parliamentary Research Service

4.12.2017 | 16:00–17:30

European Law Institute

Welcome: *Anthony Teasdale*, Director General of EPRS

Opening remarks: MEP *Heidi Hautala*

Project background: *Christiane Wendehorst*, ELI President

Presentations by ELI Project Reporters

*Katalin Ligeti*, Professor, University of Luxembourg

*John Vervaele*, Professor, University of Utrecht

*Andé Klip*, Professor, University of Maastricht

Discussants:

*Antonio Caiola*, EP, Head of Unit 'Justice and Civil Liberties'

*Judge AMG Smit*, Gerechtshof 's-Hertogenbosch

Moderator: *Antonio Caiola*, EP, Legal Service

Concluding remarks: *Joseph Dunne*, Director of EP Library



## 20 December 2017: SAVE THE DATE! Presentation of the ELI 'Rescue of Business in Insolvency Law' Project at Palais Trautson in Vienna (Austria)

The ELI Business Insolvency Project Team will be holding an evening reception on 20 December 2017 in Palais Trautson (The Austrian Ministry of Justice). The Team's ELI Instrument on the Rescue of Business in Insolvency Law having been approved at the last ELI Annual Conference and General Assembly, its Members would now like to give a brief presentation on the theme at the upcoming event. The latter is organised in conjunction with the UNCITRAL

Working Group V's (Insolvency Law) 52nd session (which takes place at the Vienna International Centre, Vienna, Austria from 18–22 December 2017). Speakers at the event will outline the various recommendations contained in the Instrument and the event will provide an opportunity for participants to raise questions and network with experts in the field.



### Join an MCC and Contribute Directly to the Work of the ELI

Members Consultative Committees (MCC) are established to give all ELI Members the opportunity to directly have a say in the development of ELI Projects. If you are interested in following the **Draft Model Rules on Online Intermediary Platforms Project** or the **Protection of Adults in International Situations Project** 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. Also, although an MCC already exists for the joint **ELI-UNIDROIT Project From Transnational Principles to European Rules of Civil Procedure**, the ELI would welcome more Members. Again, kindly get in touch with

the [ELI Secretariat](#). 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 a 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. It is desirable that the MCC Members come from various legal professions and specialise in different areas of law. It is precisely this diversity which enriches the debating potential of the MCC and makes its contribution so valuable.

## Call for Submissions

### Columbia Journal of European Law



In the near future the ELI wishes to improve its presence in the area of digitalisation. A Project on Online Intermediary Platforms is already underway as are Feasibility Studies on Fiduciary Access to Digital Assets and the Principles of a Data Economy (prospective Projects on the same are at various stages of development). In addition,

the ELI is considering embarking on Block Chain Technology and Smart Contracts and the Application of Traditional Conflict of Laws to Digitalisation Projects.

In the meantime we feature a call for papers below from our partners at Columbia Law School, where Lance Liebman, keynotespeaker at the last ELI Annual Conference, lectures.

### Europe in the 21st Century: Technology, Innovation, and the Law

Technology law issues have a global impact and are arising and developing with increasing speed. Recognising this, CJEL is launching a special law and technology issue in 2018. We are soliciting short essays (5,000–8,000 words) addressing diverse aspects technology law, including: data and information, privacy, cybercrime and cybersecurity, biotech, antitrust, State aid, entertainment, telecommunications, intellectual property, the sharing economy, and artificial intelligence.

Essays may be submitted to: [submissions.cjel@law.columbia.edu](mailto:submissions.cjel@law.columbia.edu) before Friday, 15 December 2017 at 11:59 PM EST. General submissions criteria apply, as listed on our [website](#). Please forward inquiries to Emily R Hush at [hae.cjel@law.columbia.edu](mailto:hae.cjel@law.columbia.edu)



## ELI Representation

The ELI was well represented at the 17th Österreichischer Europarechtstag (Austrian EU Law Forum) on 22–23 September, organised by ELI Member Thomas Jaeger at the University of Vienna. ELI Council Member Verica Trstenjak chaired a panel on the sharing economy, data as consideration and geoblocking, with President Christiane Wendehorst while ELI Members Hanno Wollmann and Wolfgang Faber presented on topics closely related with the ELI's past and current work, including the ELI's Statement on the Proposed Directive on the Supply of Digital Content to Consumers and the ELI's Project on Model Rules for Online Intermediary Platforms.

ELI President Wendehorst travelled to Slovakia in September in order to discuss, with some eminent legal scholars, judges and practitioners, how to attract more excellent colleagues from Slovakia to the ELI. Discussions were held around the XIII Luby Law Days Conference on 28 September 2017 at a convention centre of the Slovakian Academy of Sciences. More trips to Slovakia will follow in due course.

On 28 September 2017, ELI Vice-President Sjef van Erp and Executive Committee Member and former Lord Chief Justice of England and Wales, Lord John Thomas, attended the Day of Judicial Law Making in Utrecht (the Netherlands), which was organised by the Netherlands Council for the Judiciary. Lord Thomas gave a keynote address on the theme of The Judge of the Future: The Future of the Judge. To read Lord Thomas' full speech, please click [here](#).

On 2 October 2017, President Wendehorst spoke on issues of liability for autonomous systems and algorithm ethics

at a public panel discussion organised by the Austrian Academy of Sciences, and on 16 October 2017, she presented the Draft Framework for Discussion, produced as a preparatory step for a potential joint ALI-ELI project on Principles for a Data Economy, at an international and interdisciplinary research seminar at the Vienna University of Business and Economics (Austria). More on the Feasibility Study for the ALI-ELI project, which was presented at the ELI Annual Conference, can be found [here](#).

On 22–24 October, ELI Vice-President Sjef van Erp and Speaker of the ELI Senate, Reinhard Zimmermann, attended the biennial congress and meeting of the Executive Committee of the International Association of Legal Science (IALS) in Saint Petersburg (Russian Federation). IALS is a worldwide association of comparative lawyers originally established under the auspices of UNESCO, and the Russian Academy of Legal Sciences. On this occasion Zimmermann was elected Vice-President, and van Erp was elected Secretary General of IALS. More information about the IALS and this year's Symposium on Globalisation and Private Law can be found [here](#).

From 26–29 October President Wendehorst visited Sofia (Bulgaria) and presented the ELI at an International Conference organised at the University of National and World Economy (UNWE). She had talks with important legal scholars and representatives of various institutions in order to discuss how to boost Bulgarian membership in the ELI and to create closer links with law faculties, professional organisations and the national union of jurists.

## Updates on Hubs

### Spanish–German Conference in Madrid (Spain)

On 19–20 October 2017, the III Jornadas hispano-alemanas (III Spanish and German Conference), organised by the University Carlos III in collaboration with the University of Münster, took place at the University Carlos III of Madrid. The Conference was supported by the Spanish Hub.

The Conference addressed a variety of topics regarding Contracts for the Supply of Digital Contents from the perspectives of Spanish and German law. Academics from different Universities (Münster, Bielefeld,



München, Madrid, La Rioja, etc) took part in this event and in doing so offered an insightful comparative glimpse into their legal systems. To find the agenda of this event, please click [here](#).

## New Institutional Observers

The ELI is pleased to welcome the following organisations that have recently joined its expanding list of Institutional Observers: the European Union Agency for Fundamental

Rights (FRA) and the Austrian Data Protection Authority (*Datenschutzbehörde*). The Institute looks forward to forging a lasting and fruitful relationship with both.

### Fundamental Rights Agency



The FRA is the EU's centre of fundamental rights expertise. It is one of the EU's decentralised agencies and is an independent EU body, funded by the Union's budget. The Agency helps to ensure that the fundamental rights of people living in the EU are protected and to provide independent, evidence-based assistance and expertise on fundamental rights to EU institutions and Member States.

The Agency fulfils its tasks, as defined by its Founding Regulation, by implementing specific projects and activities, within the thematic areas of a five-year Multi-Annual Framework, which fall broadly under different chapters of the Charter of Fundamental Rights.

The Agency's tasks are carried out in consultation and cooperation with its partners. This allows the Agency to define its areas of work to ensure that its research responds to specific gaps and needs in the fundamental rights field and to share expertise, coordinate research on different areas and work together to communicate its advice to the EU and its Member States. In this way, the FRA can create synergies, make the most of its resources

and support other bodies by delivering clear opinions on how to improve fundamental rights protection. Moreover, the FRA ensures that its advice and research reach policymakers at the right levels of government and EU institutions and develop communication, multimedia and information resources based on a FRA Stakeholder Communication Framework Strategy in order to raise awareness and bring knowledge of fundamental rights to specific target groups and to the European citizen in general.

The FRA maintains particularly close links with the European Commission, the European Parliament and the Council of the European Union; other international organisations, such as the Council of Europe, the United Nations (UN) and the Organization for Security and Co-operation in Europe (OSCE). In addition, the FRA has close links with governments, civil society organisations, academic institutions, equality bodies and National Human Rights Institutions (NHRIs).

Much of the Agency's work is carried out through multi-annual rolling projects to address more resource demanding issues. In addition, cross cutting activities allow the Agency to cover a broad spectrum of fundamental rights issues.

### Austrian Data Protection Authority



Republik Österreich  
Datenschutz  
behörde

Austria was one of the first European States with a data protection authority, the Data Protection

Commission. It was created by the first Data Protection Act, BGBl No 565/1978. The Data Protection Authority replaced its predecessor, the Data Protection Commission, on 1 January 2014. The Authority is an independent government agency charged with data protection. It is the equivalent of national data protection agencies in other countries.

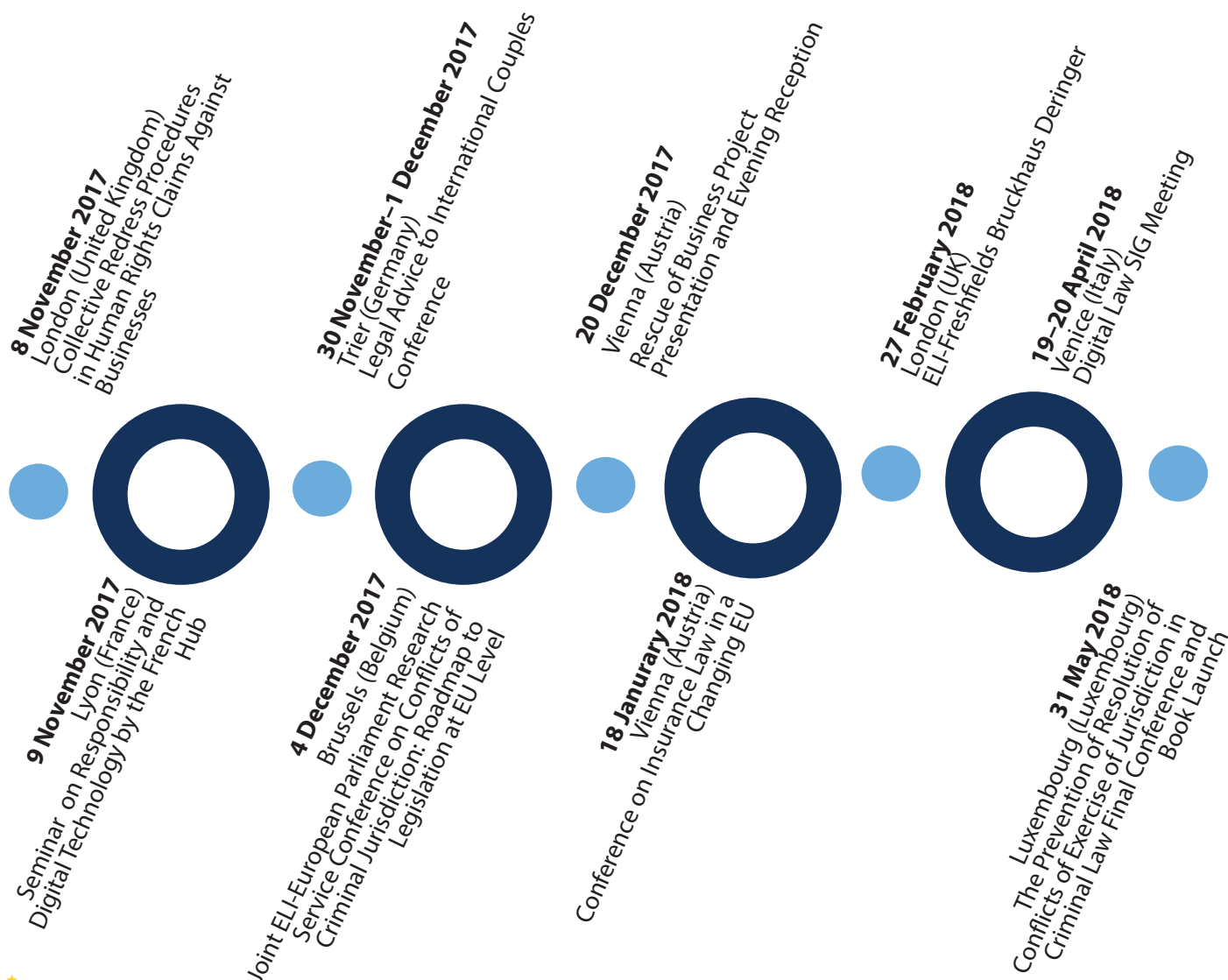
The Authority was born out of the EU Data Protection Directive 95/46/EC, a measure to harmonise data protection across Europe. In Austria, that Directive was

implemented by the Data Protection Act 2000 (DSG 2000), BGBl I No 165/1999.

Among its tasks, as a supervisory body, the Data Protection Authority is to be consulted prior to the issuance of federal laws which directly concern essential questions of data protection, as well as federal ordinances issued on the basis of the above federal law or directly related to other essential questions of data protection (§ 37(4) DSG 2000). The Data Protection Authority also provides information on proceedings before its judicial branch. In addition, depending on the facts, the approval of the authority may be required in the case of international data traffic or data export (ie the transfer of personal data to foreign countries).

## Upcoming Events: Save the Date!

More details can be found on our [website](#).



### 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.

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