

ELI Council Meeting 2 December 2024 (15:30–18:30)

Venue: Remote, Zoom

Present:

Chair: Pichonnaz, Pascal (ELI President)

Council Members

Anagnostopoulou, Despoina
Augenhofer, Susanne
Bagińska, Ewa
Başoğlu, Başak (proxy for Lehmann, Matthias)
Beale, Hugh (proxy for Schroeter, Ulrich G)
Bielska-Sobkowicz, Teresa
Calderai, Valentina (proxy for Bray, Robert)
Cannarsa, Michel (proxy for Janssen, André)
Cavalier, Georges (proxy for Peruzzetto, Sylvaine)
Cockerill, Sara (proxy for Augenhofer, Susanne)
Craig QC (Hon), Paul
Dollani, Nada (proxy for Valle, Laura)
Fountoulakis, Christiana
Georgieva, Hristina (proxy for Mazepa, Svitlana)
Gimeno-Ribes, Miguel
Grasso, Gianluca
Howells, Geraint
Janssen, André
Jiménez Muñoz, Francisco Javier
Keane, Paul
Koch, Bernhard
Kramer, Xandra
Kubica, María Lubomira
Lehmann, Matthias
Machnikowski, Piotr (proxy for Aneta Wiewiorowska-Domagalska)

Mader, Oliver
Mazepa, Svitlana
Neumayr, Matthias
Patti, Francesco Paolo
Pozzo, Barbara (proxy Comba, Mario)
Pretelli, Ilaria
Rodríguez de las Heras Ballell, Teresa (proxy Bachmaier, Lorena)
Ruda, Albert
Santos Silva, Marta
Schulte-Nölke, Hans
Shirvindt, Andrey (proxy Gimeno Ribes, Miguel)
Skrjabina, Anna
Szabados, Tamás
Toader, Camelia
Tot, Ivan
Zalar, Aleš

Ex-Officio Council Members

Gammeljord, Anne Birgitte (First Vice-President)
Sirena, Pietro (Treasurer)
Vos, Sir Geoffrey (Second Vice-President)

Other Attendees

Zimmerman, Reinhard (Senate Speaker)
Wendehorst, Christiane (ELI Scientific Director)

Bargelli, Elena (for the session on Extra-Judicial Administration of Justice in Cross-Border Family and Succession Matters)

Dutta, Anatol (for the session on Extra-Judicial Administration of Justice in Cross-Border Family and Succession Matters)

Gössl, Susanne (for the session on Enhancing Child Protection: Private International Law on Filiation and the European Commission's Proposal)

Reiling, Dory (for the session on Digitalisation of Civil Justice Systems in Europe)

Twigg-Flesner, Christian (for the session on Guiding Principles and Model Rules on Algorithmic Contracts)

Members of the ELI Secretariat

Wilcox, Vanessa (Secretary General)
Nuzzo, Mimi (Fundraising and Partnerships Officer – Keeper of minutes)
Bianchi, Laura (Project Officer)
Dudek, Tomasz (Project Officer)

The meeting commenced at 15:30.

I. Welcome and Approval of the Agenda

- (1) Pascal Pichonnaz welcomed those present.
- (2) He acknowledged the completion of the Mount Scopus project and extended his best wishes with respect to its dissemination, encouraging those present to spread the word about this significant achievement. He also welcomed feedback on ELI's Draft Response to the Multi-Stakeholder Consultation for Commission Guidelines on the Application of the Definition of an AI System and the Prohibited AI Practices Established in the AI Act before its submission to the EU.
- (3) **The agenda was approved.**
- (4) Pichonnaz gave Reinhard Zimmermann the floor.

II. 2025 Elections of the Nominate Members of the ELI Executive Committee

- (5) Zimmermann, the ELI Senate Speaker, explained that the term of the current Executive Committee will end in September 2025. A search committee was convened, which consulted and made the following proposals.
- (6) It proposes Teresa Rodríguez de las Heras Ballell as the President of ELI. The First Vice-President is proposed to be Sir Geoffrey Vos with Pietro Siena as Second Vice-President. Anne Birgitte Gammeljord was proposed as Treasurer.
- (7) Zimmermann highlighted that the Senate unanimously supports the above proposals and that nominations for other candidates will be accepted until 31 January 2025, with elections taking place on 3 or 4 March 2025.
- (8) Pichonnaz thanked Zimmermann and the search committee for their work and their proposals.

III. Projects and Similar Initiatives

(a) Extra-Judicial Administration of Justice in Cross-Border Family and Succession Matters

- (8) Project Co-Reporters Elena Bargelli and Anatol Dutta outlined developments in their project, which is nearing completion. A Dissemination Conference is to be scheduled for 14 February 2025. Among other things, they referred to terminological uncertainties as being the main theme they wished to center discussions on.
- (9) An exchange ensued with input from Matthias Neumayr, Ilaria Pretelli and ELI's Scientific Director.
- (10) The Reporters agreed to a follow-up meeting with Christiane Wendehorst to address feedback and explained that commentaries are being drafted to clarify the target audience and Principles. Wendehorst emphasised the need for the black letter to be convincing, as a majority of people, particularly policy makers, will not have time to consider them. Bargelli confirmed that a meeting with Wendehorst is scheduled for December 2024. She invited Wendehorst to point out the Principles that still require particular attention.
- (11) Among others, the need to coordinate the current project with ELI's Enhancing Child Protection: Private International Law on Filiation and the European Commission's Proposal COM/2022/695 final project was emphasised, as is the need for the Council to see the commentaries prior to the meeting at which the Extra-Judicial Administration of Justice project is approved.

(b) Enhancing Child Protection: Private International Law on Filiation and the European Commission's Proposal

- (12) Project Co-Reporters, Susanne Gössl and Ilaria Pretelli, outlined the project's objectives, timeline, and approach.
- (13) A short discussion followed with Bernhard Koch, Pichonnaz and Nada Dollani, providing feedback. Wendehorst commended the progress made but made some recommendations for further improvements. Gössl and Pretelli explained their approaches and agreed to address concerns raised.

(c) Access to Digital Assets

- (14) Project Co-Reporter, Teresa Rodríguez de las Heras Ballell, provided an update on the above and presented recent revisions to the draft.

- (15) A discussion ensued with Wendehorst congratulating the team for the progress made. Council members, Piotr Machnikowski and Hugh Beale, sought clarifications on aspects of the draft, with Beale suggesting that a clearer title for the project would be Enforcement Against Digital Assets.
- (16) Rodríguez de las Heras Ballell agreed to the above and welcomed Machnikowski's suggestion, *inter alia*, to do away with Principle 2B.

(d) Guiding Principles and Model Rules on Algorithmic Contracts

- (17) Project Co-Reporter, Christian Twigg-Flesner, provided an overview of recent developments and changes based on feedback received.
- (18) A discussion followed with Marta Santos Silva, Pichonnaz and Beale providing input. Twigg-Flesner thanked participants for their comments, adding that they would be reflected upon.

(e) Digitalisation of Civil Justice Systems in Europe

- (19) Project Co-Reporter, Dory Reiling provided an update, stating that a draft will be ready before Christmas.
- (20) A discussion ensued with Geoffrey Vos, Teresa Bielska-Sobkiewicz and Neumayr providing input. Vos, in particular, pointed to the fact that several provisions were in conflict with the recently approved ELI-Mount Scopus European Standards of Judicial Independence, which is unhelpful. He also emphasised the need for the blackletter to be consistent and homogenous.
- (21) Wendehorst, praised the progress made but, like Neumayr, expressed doubts about the project meeting its deadline. Responding to earlier comments, Reiling acknowledged the challenges of keeping the project current but stressed the importance of delivering actionable recommendations. She also noted concern about the deadline but explained that any extension would mean an entire re-write. She welcomed any additional feedback from the Council on good practices in the field at national level. Pichonnaz suggested the Reporters also reflect on bad practices.

IV. ELI Feedback on the Draft European Business Code of Henri Capitant Association

- (22) Pichonnaz summarised an exchange with the leadership of the Henri Capitant Association in July 2024, noting that translating the entire Business Code in one go was deemed impractical and would slow the process of review down. Instead, the Association is releasing chapters that have already been translated into English. Once available, the chapters are sent to the experts listed in

the Council annex for review. It is likely that ELI's Feedback will be released in tranches, with Council approval of each tranche, and that a consolidated text will be published in due course.

(23) The Council adopted the Feedback (43 'yes', 1 'no' and no 'abstentions')

V. YLA

(24) Pichonnaz reminded Council members to encourage participation in the Young Lawyers Award.

VI. Any Other Business

(25) He thanked Executive Committee members, the Scientific Director, as well as the Secretary General and her team for the excellent preparation of the Council meeting, work on all the projects and the work done behind the scenes. He emphasised the importance of collaboration and wished everyone a productive upcoming year.

The Council meeting ended at 18:00.