Welcome

It is a pleasure to welcome you to this project newsletter. We felt it would be helpful, especially as we now enter the final phases of our project to keep all project members, advisers and others having a close involvement with our work advised as to our aspirations, events and the likely timetable.

We would of course also like to take this opportunity to thank everyone for their hard-work and ongoing commitment to the project. We have made tremendous progress and created much anticipation, so these last months of the project have become even more critical in achieving our ambitious goals. You will find at the end of this newsletter a tentative timetable of the next months with the key staging points that we hope, with your continued co-operation, to be able to fulfill.

Once again, huge thanks from us both and indeed our respective institutions, for your valuable work, we greatly look forward to seeing many of you at the various meetings in the coming months. In the event of any comments or queries please do not hesitate to make contact with us directly or the ELI or UNIDROIT secretariats as appropriate.

Sincerely,

Diana Wallis and Anna Veneziano
Update from the Structure Working Group and the Current Status of the Project

Group members: Loic Cadiet, Xandra Kramer (co-reporters), John Sorabji, Rolf Stürner

Contributed by Xandra Kramer

The Structure group was established in 2016 with the purpose of securing a coherent set of rules. In 2017, we set out to work by studying draft rules of the first three working groups and by developing a general structure of the rules in which the rules of the other working groups could be implemented in the best possible way. Sometimes, the rules overlap and there are differences in drafting style and in terminology. It also became clear that there are several gaps in what one might expect from such set of European rules of civil procedure. In mid-2017, we prepared a format for the working groups to secure a more uniform structure with the aim of giving guidance to the other working groups, which would make it easier for our group to implement these into the overall structure. Our working group has also provided feedback to most of the drafts that we have received so far. While most rules of the working groups will end up in separate parts (eg those on service, evidence, and provisional measures), some of the rules will find their place in different parts considering their more general nature (in particular the rules on obligations of the parties, lawyers and judges). Most of the rules can be implemented as they have been formulated by the working groups, but to secure (linguistic) consistency, it is sometimes necessary to adjust the wording, or to merge or to reorder the rules. It goes without saying that we consult the reporters of the working groups whenever necessary. We are also in the process of formulating a number of general rules of civil procedure deriving from the general parts of the other working groups and taking into account other important (international) sources. A lot of work is still to be done, but the aim is to present a final consolidated version in May 2019.

Overview of the Working Group Meetings in 2018

Report from the ELI Secretariat

January

Meeting of the Structure Working Group in Paris (France)

On 17 January, the Structure Working Group (WG) met in Paris to discuss the incorporation of further parts of the principles of civil procedure, such as res judicata, and obligations of parties, lawyers and judges.

Meeting of Parties Working Group in Leuven (Belgium)

On 24–25 January 2018, the Parties Working Group
met in Leuven for their final working meeting before submitting the draft rules on parties in civil procedure to the Steering Committee and the Structure Working Group.

February

Judgments WG meeting in Rome (Italy)

Group members: Chiara Besso, Christoph Kern (co-reporters), Laura Ervo, Natalie Fricero, Andrew Higgins, Thomas Sutter-Somm

The third meeting of the Judgments WG took place on 2-3 February 2018 in Rome (Italy). The meeting was hosted by UNIDROIT, at its premises of Villa Aldobrandini. All members of the group were present. The meeting began on Thursday with a discussion on the planning of the work. The group continued after lunch break and concluded their meeting late at night. The group met again on Friday and held a lively discussion with intense participation of all the group members enabling the WG to prepare the version of the rules presented at the ELI-UNIDROIT meeting in April in Rome. The working group expresses their gratitude to the Deputy Secretary-General of UNIDROIT Anna Veneziano and to the UNIDROIT staff, in particular to Laura Tikanaara and Valentina Viganò, who took excellent care the group.

April

Joint ELI-UNIDROIT Meeting in Rome

The two-day event, which took place on 9 and 10 April, was a traditional meeting gathering co-reporters and members of the Working Groups, the Steering Committee, Advisors and Observers of the Project, who were invited to share feedback on the current and prospective work of the Project.

The meeting constituted the first joint event by the ELI and UNIDROIT this year.

Appeals WG meeting (Rome 10–11 April)

Group members: Frédérique Ferrand, Christoph Kern (co-reporters), Fernando Gascón Inchausti, Magne Strandberg

May

Structure WG meeting in Paris

The ELI-UNIDROIT Structure working group met on 23 May in Paris. The meeting was kindly hosted by Professor Loïc Cadiet at the École de Droit de la Sorbonne Université Paris I.

This was the second WG’s meeting in 2018. The focus of the meeting was on Part I of the consolidated draft of rules on civil procedure. Members of the working group, Loïc Cadiet, Xandra Kramer, John Sorabji and Rolf Stürner, discussed the following issues among other things: the incorporation of new draft rules, the structure of particular sections, the content of new sections and the draft on parties, court management, the commencement of proceedings and the preparation of the final hearing. The meeting resulted in a refined and improved structure, and a further consolidation of the draft, including of Part I.

July

Working Group on Costs meets in Vienna

Group members: Eva Storskrubb, Paul Oberhammer (co-reporters), Wendy Kennett

The Costs Working Group held a meeting on 3 July in Vienna (Austria). The meeting was kindly hosted by the Dean of the Faculty of Law of the University of Vienna, Univ-Prof Mag Dr Dr hc Paul Oberhammer, at the premises of the University of Vienna.

The Costs Working Group was established in November 2015 by a decision of the Steering Committee.
The focus of the meeting in Vienna was on the structure of the draft on costs. Members of the Working Group, Wendy Kennett, Paul Oberhammer and Eva Storskrubb, discussed among other things the following issues: a traditional 'European rule' on costs and its principles, rules on court decisions regarding costs, the scope and amount of costs, a possible recourse and the security of costs.

**August**

**Appeals WG meeting (28–29 August, Heidelberg)**

**September**

**Panel at ELI Annual Conference in Riga (Latvia)**

Panelists: Anna Veneziano, Diana Wallis (co-chairs), Emmanuel Jeuland, Xandra Kramer and John Sorabji

The 2018 Annual Conference in Riga provided us with an opportunity to update the ELI membership and all the other attendees of the conference on the progress made since September 2017 in Vienna. The panel on 6 September discussed the project’s current status, including the work produced by one of the final working groups on parties and the extent to which the project tackles the issues of impact of digital innovation on civil procedure.

After a short presentation of the history of the project and its concept by the Members of the Steering Committee, Anna Veneziano and Diana Wallis, the co-reporter of the Structure Working Group, Xandra Kramer, presented an overview of the work already produced and that which is being developed by the horizontal Working Group on Structure. She explained that to date, three drafts were consolidated and two more drafts will be consolidated in the close future. She also explained that the Structure Group devoted a considerable amount of time to a discussion on general principles and to choosing a uniform style in which the rules will be drafted.

John Sorabji, a Steering Committee Member and a Member of the Structure Group, spoke about how he saw the project work fitting with the new developments of the digital age. He explained that some developments have already transformed certain areas of civil procedure, among other things: online hearings, electronic evidence, management of the dispute resolution (online dispute resolution (ODR), or use of artificial intelligence (AI) as means of providing predictive justice).

Finally, a co-reporter of the Parties Working Group, Emmanuel Jeuland, showed how the group tackled certain topical issues (ie collective redress) given the new EU proposals and third party funding.

**Structure WG meeting (12 September, Paris)**

**Structure WG meeting (7 November, Paris)**

The Structure Working Group will hold one more meeting on 12 December in Paris.
Future Meetings

ELI-UNIDROIT & ERA Conference in Trier (Germany)

On 26–27 November, a public conference will be organised by the ELI and UNIDROIT at the Academy of European Law (ERA).

As the work on the structure of the rules nears completion, this public conference aims at presenting the advanced results achieved by the project’s current and former working groups. Participants of the conference will have a chance to get a sense of the whole project as the work is drawing to an end. The Members of the project as well as other esteemed experts in the field of civil procedure will present the achievements and challenges of the work of the respective working groups and stimulate a discussion on selected pressing legal issues in the area of civil procedure.

Please also bear in mind when making travel arrangements that there will be a joint meeting of the Steering Committee, the Structure Group and the Working Group reporters on the first day of at the conference (26th November 2018) from 11:00–13:00. This internal meeting will serve as an opportunity to discuss any open issues with the co-reporters. Please find more details about the event on the ELI website.

Other Project-related Events in 2018

Conference on 28 May–1 June 2018 in Dubrovnik (Croatia)

Contributed by the organisers: Prof Alan Uzelac and Prof Remco van Rhee

The annual international conference and course ‘Public and Private Justice: Dispute Resolution in Modern Societies’ was held in Dubrovnik from 28 May to 2 June 2018. The course is regularly attended by leading legal experts – both academics and practitioners – discussing the modern developments in the field of civil procedure, but also their historical origins. The event is co-organised by the universities of Zagreb and Maastricht, and with the support of the course directors from the universities in Pavia, Oslo, Vienna and Maribor, as well as the Max Planck Institute Luxembourg for International, European and Regulatory Procedural Law.

The specific topic of this year’s conference, entitled ‘Harmonization of Civil Procedure in Europe: Prospects for Integration Amidst Disintegration?,’ dealt with the current harmonizing attempts related to reforms of civil procedural law in Europe. The last day of the conference, traditionally devoted to legal aid and clinical legal education, focused on the influence of clinical models on the legal profession in Europe.

A notable part in the programme of this traditional conference was devoted to the work on the ELI-UNIDROIT project ‘From Transnational Principles to European Rules of Civil Procedure’. This project was presented and discussed by several speakers,
with a participation of several reporters and other members from the corresponding working groups. Xandra Kramer emphasised the importance of the structured approach to the creation of European rules, and presented the work on the rules related to interim measures. Harmonisation of evidence rules and its challenges were presented by Fernando Gascón. Frédérique Ferrand discussed the common issues with regards to lis pendens and res judicata rules. The issues with regards to the legal standing and parties was presented by Emmanuel Jeuland, while procedural obligations of judges, parties and lawyers was co-presented by Remco van Rhee and Alan Uzelac. The challenges to the uniform regulation of service of documents were presented by Wendy Kennett. The presentations were followed by the comments of distinguished scholars, which gave rise to a lively discussion.

The programme of the conference, the list of participants and conference photos can be found [here](#).

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**Should you like to report on any events or publications relating to the project that might be of interest to everyone, please contact the ELI Secretariat. We will feature a news item about an event and/or publication in our next issue of the project Newsletter.**

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**Conference on 4–5 October 2018 in Milan (Italy)**

Xandra Kramer (a co-reporter of the WG ‘Structure’ and a reporter of the WG ‘Provisional and Protective Measures’), Remco van Rhee (a co-reporter of the WG ‘Obligations of Parties, Lawyers and Judges’) and Eva Storskrubb (a co-reporter of the WG ‘Costs’ and of the WG ‘Service and due notice of proceedings’) took part in the Conference ‘European Civil Procedure: Current Issues and Future Challenges’ organised on 4–5 October 2018 in Milan (Italy).

Xandra Kramer took part in the discussion on ‘What future for the harmonization of civil procedure in Europe?’, while Remco van Rhee spoke about the perspectives on harmonisation of civil procedure in Europe and gave a critical overview on the ‘Ups and downs of the harmonization process of civil procedure in Europe’. Eva Storskrubb discussed ‘The Impact of the ELI-UNIDROIT Joint Project “From Transnational Principles to European Rules of Civil Procedure” on Harmonization of Civil Procedure in Europe’.
Below, you will find the timetable for upcoming events and meetings, with the caveat that some of these dates may be subject to adjustments at a later stage.

<table>
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<tr>
<th>Date Range</th>
<th>Event Description</th>
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<tr>
<td>November 2018, (electronically)</td>
<td>Sharing of updated draft documents by the Structure Group with co-reporters and Steering Committee ahead of the public Conference in Trier.</td>
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<tr>
<td>26–27 November, Trier (Germany)</td>
<td>Internal meeting in the morning ahead of the Conference followed by the Public Conference. The internal meeting will serve as an opportunity to discuss all open issues with the co-reporters.</td>
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<td>10 December 2018 (with peer review)–8 January 2019, (electronically)</td>
<td>Submission of a draft conference paper for a publication in the <em>Uniform Law Review</em>. Please contact Ms Lena Peters at UNIDROIT (<a href="mailto:l.peters@unidroit.org">l.peters@unidroit.org</a>).</td>
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<td>15 February 2019, (electronically)</td>
<td>Submission of the draft to enable discussion as an on-going project at the ELI Council at the end of February/beginning of March 2019.</td>
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<td>25–26 February 2019, Rome (Italy)</td>
<td>Last joint ELI-UNIDROIT Steering Committee and Co-Reporters meeting.</td>
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<td>Early April 2019, (electronically)</td>
<td>The Structure Group submits a draft of the set of Rules in English only, as well as comments where available. This text will be submitted to the newly elected UNIDROIT Governing Council as well as to the ELI Executive Committee, Advisory Committee and Members Consultative Committee for preliminary consideration.</td>
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<td>20 June 2019, (electronically)</td>
<td>If possible, submission of the draft available at that time (rules and comments in English) to ELI Executive Committee, Advisory Committee and Members Consultative Committee.</td>
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<td>1 July 2019, (electronically)</td>
<td>The Structure Group to submit a final text again English only (rules and comments) for final consideration and vote by ELI in September 2019. The document will be shared internally with UNIDROIT.</td>
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<td>4–6 September 2019, Vienna</td>
<td>ELI Council and GA vote.</td>
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<td>End of 2019, (electronically)</td>
<td>Submission of both the English and the preliminary French version (the latter with comments only to the extent it will be possible at this stage) to the UNIDROIT Governing Council. The ELI Council in spring could work as a back-stop for any further discussion or approval as needed.</td>
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