

ELI President and Vices

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Vienna, 19 December 2024

Dear Minister Pakosta

We have the great pleasure of extending a formal invitation to you to participate in the invitation-only European Law Institute (ELI) High Level Forum on Principles Governing the Third Party Funding of Litigation (TPLF), which will take place online on **19 February 2025 from 16:30–18:00 CET**.

The High Level Forum, which will be opened by Mr Andreas Stein, Head of Unit responsible for civil justice at the European Commission's Directorate General for Justice, will provide the opportunity to discuss the recently published ELI Principles Governing the Third Party Funding of Litigation, available [here](#). These comprehensive Principles aim at providing essential guidance for litigants, funders, legal advisors, and regulatory bodies involved in TPLF agreements. Developed in response to the rapidly expanding global TPLF market, the Principles seek to enhance transparency, fairness, and accessibility in litigation funding. The ELI encourages jurisdictions to incorporate these Principles – which provide a flexible framework – into legislation or regulation to ensure effective enforcement.

The Principles are the final outcome of the ELI project on Third Party Funding of Litigation led by Co-Reporters, Dame Sara Cockerill, Judge of the High Court of England and Wales, Judge in Charge of the Commercial Court 2020–2022 and Prof Mag Susanne Augenhöfer, Professor, Universität Innsbruck, Senior Research Scholar in Law and Visiting professor, Yale Law School. It was driven by the rapid expansion of the TPLF industry, with projections estimating the market size to surpass US\$35 billion by 2035, by one account.

A key issue behind a call for regulation in this field is the transparency deficit and the knowledge imbalance between funders and funded parties, particularly consumers. Consistent concerns across jurisdictions involve information asymmetry and power imbalances during TPLF agreement negotiations. While focused on the principles and practices essential for the European TPLF market, the Principles acknowledge that these issues are not confined to Europe alone and aim for a framework that resonates globally and supports fair litigation funding practices worldwide.

Four core objectives for effective TPLF – facilitating access to justice, addressing valid TPLF concerns, levelling the international playing field, and informing regulatory or legislative responses – offered guidance in the drafting of the resulting core Principles which cover Promotional Materials, Transparency, Avoidance and Management of Conflicts of Interest, Capital Adequacy of Funders, Funders' Fees, Confidentiality, Case Management (Control), Termination of Third Party Funding Agreements, and Dispute Resolution and Review by Courts or other Authorities. These Principles are accompanied by general provisions (covering subject matter and purpose, scope and definitions) as well as an appendix on the recommended minimum content required in TPLF agreements. The

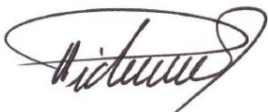
Report also provides insights into specific types of proceedings, namely consumer litigation, insolvency proceedings, arbitration, and crowdfunding of litigation. It further explores related concepts like Damages Based Agreements (DBAs) and Conditional Fee Agreements (CFAs), where the legal representative's remuneration depends on the litigation's outcome, as well as insurance.

We would be greatly honoured if you were to accept our invitation to be involved in the above event. Should you perhaps not be able to participate, we invite you to nominate a representative

We look forward to hearing from you **at your earliest convenience**.

The ELI Secretariat team will be in touch, should you be available, with more detailed arrangements.

Yours sincerely



Prof Dr Pascal Pichonnaz
ELI President



Anne Birgitte Gammeljord
ELI First Vice President



Sir Geoffrey Vos
ELI Second Vice President