

Advanced Training on Remedies in Public Procurement

10 – 11 February 2014, Brussels

Case analysis | Presentations | Discussion rounds | Practical exercises

CHAIR:

Christopher Bovis
Chair and Academic Director of the
Seminar; Professor of International and
European Business Law and Policy,
University of Hull, United Kingdom

EXPERTS:

Marc Steiner
Swiss Federal Administrative Court

Constant De Koninck
Belgian Court of Auditors

Adrián Tokár
Legal Service, European Commission

Vianney Petetin
Carbonnier, Lamaze, Rasle & Associés,
Paris

Michael Varney
University of Hull, United Kingdom

Songul Mutluer
Stitching RIJK, The Netherlands

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General information

The fair and unobstructed functioning of public tendering is a central objective of the 2011 Single Market Act. Public authorities are required to guarantee EU-wide publicity of their tenders and non-discriminatory award procedures, but also a swift remedies system for aggrieved parties.

In the European Union, the national remedies systems are coordinated by the Remedies Directive. There are also various international agreements referring to this issue. Still, the interpretation of the respective legislation and of the developing case-law as well as the practical application of remedies in the public procurement procedures remain a challenge for both procuring authorities and participating tenderers

Thematic scope

In our training, public servants will be taught how to ensure compliance with Public Procurement law and deal with actions for remedies. For their part, tenderers and their legal representatives will learn how to best protect their interests and defend their rights. To that end, the major legal and practical issues in public procurement remedies will be tackled:

- Access to Information in Public Procurement Litigation
- Access to Courts in Public Procurement: Admissibility and *Locus Standi* and Interim measures in Public Procurement
- Actions for Damages in Public Procurement
- The WTO Government Procurement Agreement and Remedies in Public Procurement
- Recent Developments in Case-Law on Remedies in Public Procurement
- Remedies for Ineffectiveness in Public Procurement.

The training will conclude with a roundtable on experiences and best practices in the Member States during which national procurement specialists will present their national remedies systems and discuss with you your cases and experiences.

Focus group

- Procurement officials from national, regional and local public authorities involved in the preparation and implementation of public procurement procedures and the awarding of contracts
- National experts involved in lawmaking on public procurement
- Industry representatives and In-house counsels
- Legal practitioners in national and international law firms
- Consultancies specialised in public affairs
- Public and private banks
- Academia

Methodology

The participants will be actively involved in the training. Together with our experts, they will analyse the regulation, case law and best practices forming an effective protection system in public procurement. The training sessions will combine presentations with case studies and discussion rounds.

Each session will give the participants ample opportunities to present their own problematic issues and discuss them with the speakers and participants from other Member States. Send us your questions and cases in advance! We will forward them to our experts, who will include your issues in the programme.

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Programme

Day 1 (Monday, 10 February 2014)

9:00 – 9:30	Registration
9:30 – 10:00	Welcome note by Lexxion Introduction and setting the scene <i>Christopher Bovis, Professor of International Business Law and Policy, Business School, University of Hull, United Kingdom</i>
10:00– 11:00	Access to Information in Public Procurement Litigation <i>Michael Varney, University of Hull, United Kingdom</i>
11:00 – 11:30	Coffee break
11:30 – 13:00	Access to Courts in Public Procurement: Admissibility and Locus Standi <i>Cristopher Bovis</i>
13:00 – 14:00	Lunch
14:00 – 15:00	The WTO Government Procurement Agreement and Remedies in Public Procurement <i>Marc Steiner, Swiss Federal Administrative Court</i>
15:00 – 15:30	Coffee break
15:30 – 17:30	Actions for Damages in Public Procurement <i>Christopher Bovis & Constant De Koninck, Belgian Court of Auditors</i>
17:30	End of Day 1

Day 2 (Tuesday, 11 February 2014)

9:00 – 10:30	Recent Developments in the Case-Law on Remedies in Public Procurement <i>Adrián Tokár, Legal Service, European Commission</i>
10:30 -11:00	Coffee break
11:00 -12:00	The Remedy of Ineffectiveness in Public Procurement <i>Christopher Bovis & Marc Steiner</i>
12:00 – 13:00	Lunch
13:00 – 15:30	National Experiences and Best Practice from Member States <ul style="list-style-type: none"> ■ United Kingdom <i>Michael Varney, University of Hull</i> ■ France <i>Vianney Petetin, Carbonnier, Lamaze, Rasle & Associés, Paris</i> ■ The Netherlands <i>Songul Mutluer, Stichting RIJK</i>
16:00	Closing Remarks and End of the Training

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Chair and Speakers

Chair and Academic Director:

Christopher Bovis

Professor of International and European Business Law and Policy, Business School, University of Hull, United Kingdom

Professor, JD, MPhil, LL.M., FRSA is H.K. Bevan Chair in Law at the University of Hull. Christopher Bovis is a leading authority in EU public procurement and public-private partnerships. He specializes in European Business Law, antitrust law and policy, with particular emphasis on public sector management. He advises international institutions on public sector reforms and has acted on behalf of government and industry on numerous high profile projects. He has been instrumental in structuring flagship public-private partnerships in the UK, EU and overseas. He has published extensively in international legal and management journals and has produced numerous books, monographs and articles on European and business subjects. His academic work has been translated into different languages, including Chinese, French and German.

Speakers (in order of appearance):

Michael Varney

University of Hull, United Kingdom

Mike Varney is a lecturer and Deputy Director of the Institute of European Public Law at the University of Hull Law School. His research addresses issues of public law (particularly administrative law), media law, procurement law and the law relating to information and information rights. At present, Mike is working on research on access to procurement information and is also completing a book on electronic procurement in the public sector, both of which are due for publication in the coming year.

Marc Steiner

Judge, Swiss Federal Administrative Court, Switzerland

Marc Steiner holds a Master of Law from the University of Basel and is admitted to the bars. He has delivered an expertise on Green Public Procurement in Switzerland (2006) and issued a working paper on how to integrate social aspects in public procurement processes (2009, 2nd version 2010). He has been appointed as a Judge to the Swiss Federal Administrative Court in 2007 (2nd Division, primarily in charge of economic matters including public procurement and competition). He is one of four co-authors of a standard work on the practice of public procurement in Switzerland. Marc Steiner is also involved as a regular guest of the ILO International Training Centre ITCILO, Torino, in the spreading of knowledge about the Sustainable Public Procurement.

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Speakers

Constant De Koninck Senior Auditor, Belgian Court of Auditors

Constant de Koninck is Master of Laws, Master in Public Law and Master in Criminology. He works as a senior auditor at the Belgian Court of Audit where he specializes in the audit of the tendering and execution of major public procurement contracts. He has published extensively about the theory and practice of Belgian and European public procurement law and this as well in German, English, French and Dutch. He regularly gives lectures and presentations on the subject of public procurement at home and abroad. Constant De Koninck is editor in chief of the *Chronique des Marchés Publics (Yearbook Public Procurement)*.

Adrián Tokár Legal Service – MIME Team, European Commission

Adrián Tokár is member of the Legal Service at the European Commission since 2007 and responsible for public procurement files since 2011. Mr. Tokár started his career as an intern at the European Parliament, and then worked as a lawyer in the areas of corporate law with Csekés, Világi, Drgonec and Partners, Attorneys at Law in Bratislava. Furthermore, he collaborated with the Centre for Legal Analyses, Kalligram Foundation in Bratislava from 2000 to 2004, dealing with issues related to human rights and EU law.

Songul Mutluer Stichting RIJK, The Netherlands

PhD at the Vrije University in Amsterdam, Songül Mutluer is a lawyer at the Regional Joint Centre IJmond Kennemerland. She is also active in the academic field, as a teacher at the VULA Academy for Post Academic Education and as a researcher; her research focuses especially on unreasonable contractual terms in government contracts established after a public procurement procedure.

Vianney Petetin Attorney, Carbonnier, Lamaze, Rasle & Associés, Paris, France

Vianney Petetin is an attorney at law at Carbonnier Lamaze Rasle et associés, a Paris law firm. He specialises in administrative (public) law, in particular public procurements and project finance schemes for public infrastructure projects. Previously he has worked for several law firms, among which Dechert Price & Rhoad, Rauh Woeste et associés, Salans et associés. Currently he is working on public-private partnerships (PPP) in France.

