

## Objective

The aim of this seminar is to provide practical legal training on procedural issues for practitioners involved in State aid cases.

## Key topics

- Procedural issues arising from administrative State aid proceedings before the European Commission
- Key changes after State Aid Modernisation
- Judicial review proceedings of State aid decisions in the EU courts and related challenges
- Recovery of unlawful or misused State aid
- Private enforcement of State aid rules
- Enforcement of EU State aid rules in national judicial proceedings
- Minimum requirements for national remedies and procedures set by EU law

## Who should attend?

EU and national civil servants, lawyers in private practice and in-house counsel dealing with State aid cases.

## Speakers

**Nicole Coutrelis**, Coutrelis & Associés, Paris

**Jacques Derenne**, Partner, Sheppard Mullin, Brussels; Professor, University of Liège and Brussels School of Competition

**Leo Flynn**, Legal Service, European Commission, Brussels

**Camelia Grozea**, Case Handler, State Aid, DG COMP, European Commission, Brussels

**Maria Muñoz de Juan**, Case Handler, State Aid, DG COMP, European Commission, Brussels

**Kai Struckmann**, Partner, White & Case, Brussels

**Vincent Verouden**, Director, E.CA Economics, Brussels

**Philipp Werner**, Partner, Jones Day, Brussels

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## STATE AID PROCEEDINGS AND LITIGATION

EU ADMINISTRATIVE AND PROCEDURAL LAW IN STATE AID MATTERS

**Brussels, 18-19 May 2017**

Rue de l'Aqueduc 118  
Waterleidingsstraat  
B-1050 Brussels

### Organisers:

Eirini Volikou and Jaroslav Opravil, ERA

### Language:

English

### Event number:

217D59



## Thursday, 18 May 2017

- 09:00 Arrival and registration of participants
- 09:30 **Welcome and introduction**  
*Jaroslav Opravil*
- I. ADMINISTRATIVE PROCEDURE IN STATE AID MATTERS BEFORE THE EUROPEAN COMMISSION**
- 09:45 **Procedure before the European Commission**
- Pre-notification phase of informal contacts
  - Possibility for a simplified procedure
  - Preliminary and formal investigation procedure
  - Review of new and of existing aid
  - Procedural changes after SAM: requests for information, sector inquiries and beyond
  - Procedural status and guarantees of Member States, aid recipients, competitors and third parties
  - Access to file
  - The revision of the Code of Best Practice for the conduct of State aid control procedures  
*Camelia Grozea*
- 10:45 Discussion
- 11:00 Coffee break
- 11:30 **Recovery of unlawful and incompatible aid**
- Objective and principles of recovery
  - Elements of recovery decisions
  - Impact of recent CJEU case law
  - Complementary roles of the European Commission and national courts
  - Sanctions for non-implementation of negative Commission decisions  
*Jacques Derenne*
- 12:10 Discussion
- 12:30 Lunch

II.

## JUDICIAL REVIEW OF EUROPEAN COMMISSION STATE AID DECISIONS BY THE EU COURTS

- 14:00 **Admissibility of actions challenging European Commission decisions**
- Challengeable acts
  - Legal interest in bringing proceedings
  - The concept of “direct and individual concern” under Article 263(4) TFEU
  - Challenging phase I decisions
  - Challenging phase II decisions
  - Standing of aid recipients, competitors, associations, etc. (including complainants)
  - Further procedural issues  
*Leo Flynn*
- 15:15 Discussion
- 15:30 Coffee break
- 16:00 **Review on the merits and other issues**
- Grounds for review
  - Distinction between procedural requirements and substance
  - Manifest error test
  - Private investor test, complex economic assessments and European Commission discretion
  - Appeals to the Court of Justice and interim measures  
*Philipp Werner*  
*Vincent Verouden*
- 17:00 Discussion
- 17:15 End of the first day
- 17:30 Reception

## Friday, 19 May 2017

III.

## ENFORCEMENT OF STATE AID LAW IN NATIONAL COURT PROCEEDINGS

- 09:30 **National courts as enforcers of State aid rules**
- Cooperation with the European Commission as foreseen in the new Procedural Regulation
  - Experiences drawn from the Notice on enforcement of State aid law by national courts  
*Maria Muñoz de Juan*
- 10:00 Discussion
- 10:15 **The procedural framework in recovery actions**
- Impact of EU law on standards of proof
  - Procedural autonomy
  - *Locus standi*
  - Stay of proceedings because of ongoing proceedings at EU level etc.  
*Nicole Coutrelis*
- 11:00 Discussion
- 11:15 Coffee break
- 11:45 **Damages actions and injunctive actions in national courts**
- Powers of national judges
  - The issue of locus standi
  - Application of the CJEU case law  
*Kai Struckmann*
- 12:15 Discussion
- 12:30 End of the seminar

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Programme may be subject to amendment.  
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