

The Infringement Procedure Under Article 258 TFEU - A Practical Overview

Luxembourg, 20-21 September 2010



Introduction

Target group

The seminar targets all public sector employees who are in charge of or involved in the transposition of EU Law and/or answering/preparing the defences of the State in all stages of the infringement procedure at the three levels of government (i.e. national, regional and local). It also targets practitioners, experts and other interested actors from the private sector, who wish to update their knowledge of the infringement procedure and obtain a comprehensive overview.

Description

As "Guardian of the Treaties", one of the tasks entrusted to the European Commission by article 17 of the EU Treaty is to oversee the application of EU law. The infringement procedure – articles 258-260 of the Treaty on the Functioning of the European Union – is one of the enforcement mechanisms that can be applied by the Commission against a Member State whenever the Commission is of the opinion that the Member State is in breach of its obligations under Union law.

The objective of this seminar is to present a practical analysis of the infringement procedure: the details, the procedure itself, the role of the Commission and the position of the Member States (e.g how to avoid a Court case and possible defences).

Objectives

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Methodology

Presentations, workshops and case studies. All sessions will include question and answer sessions and the possibility to exchange experiences.

Programme

MONDAY, 20th SEPTEMBER 2010

09.30 **Welcome and introduction to the seminar**
Diego RAMIREZ-CARDENAS, Senior Lecturer, European Centre for Judges and Lawyers, EIPA Luxembourg

09.45 **Pre-258 letters:**

- Contents of the letter;
- Obligation for the Member State to respond - how to reply;
- Decision to initiate the infringement procedure is formally taken by the College of Commissioners.

Letter of formal notice:

- Contents of the letter of formal notice;
- Obligation for the Member State to respond - type and content of reply;
- The possible outcomes:
 - Classification of the complaint and closure of the file;
 - Institution of the proceedings.

Réka SOMSSICH, Associate Professor at the Faculty of Law of ELTE University Budapest

11.15 Coffee break

11.45 **Reasoned opinion**

- Contents of the reasoned opinion;
- Obligation of the Member State to conform itself to the reasoned opinion;
- The possible outcomes:
 - Classification of the complaint and closure of the file;
 - The case is brought before the Court of Justice.

Questions that may be raised at this stage:

1. Is there a difference between cases concerning formal implementation on the one hand and a complaint based on content of the national measure?
2. Can the MS still at this stage avoid a court case and how?

Réka SOMSSICH, Associate Professor at the Faculty of Law of ELTE University Budapest

13.15 Lunch

15.00 **The decision of the Court and its effects**

- Declaratory character of the decisions delivered by the Court of Justice;
- Obligation for the Member State to take all necessary measures in order to put an end to the infringement;
- Obligation to repeal the national measures contrary to the EU law.

Diego RAMIREZ-CARDENAS, Senior Lecturer, European Centre for Judges and Lawyers, EIPA Luxembourg

16.00 Coffee break

16.30 **Litigation phase**

- The matter is brought before the Court of Justice;
- The proceedings per se:
 - Referral to the Court
 - Written phase: the application, the defence, the reply and the rejoinder
 - The submission of the judicial documents, the service of documents and the time-limits
 - Measures of organisation of procedure and preparatory inquiries
 - The oral procedure and the arguments of the parties

- Conduct of proceedings, simultaneous interpretation, duration and practical advice
 - Prerogatives and obligations of the Commission;
- Jean-Baptiste LAIGNELOT*, Legal adviser at the General Secretary of European Affairs (SGAE), Paris, France

18.00 **Plenary discussion: Questions that may be raised at the litigation stage:**

1. What can a member state do to improve its situation/ position during the litigation?
 2. What happens in the court proceedings (what documents to file, how is the oral presentation prepared)? Who represents the state?
 3. What options does the MS have before the Court, including whether the MS still can remedy the "damage" done with a view to make the Commission withdraw the case?
 4. Who pays what court costs?
- Jean-Baptiste LAIGNELOT*

19.00 Cocktail

TUESDAY, 21st SEPTEMBER 2010

09.00 **Possible defences of the Member States**

In an interactive way, participants will have the possibility to analyse different potential defences and to compare with the Court of Justice's reaction to those defences.

- Parallel application;
- Minimal default to fulfil the obligations;
- Opportunity;
- "Time overpassed";
- Modification of the rules at the origin of infringement;
- Shortness of the time-limit set out to transpose EC law;
- Reciprocity;
- Force majeure;
- Unlawfulness (illegality of the measure);
- Elimination of infringement after the expiry of the time limit set out in the reasoned opinion;
- Execution of an EU obligation "in equivalent practice".

Questions that may be raised at this stage:

1. Examples of previously rejected defences by MS
2. Outlining possibilities and cases initiated by other MS
3. Recent examples of case-law

Jean-Baptiste LAIGNELOT

10.30 Coffee break

11.00 **Sanctions for failure to comply with the judgment**

- Article 260 TFEU
 - Lump sum or penalty payment
 - Court's discretion
 - Criteria to establish the amount of the sanction
- Diego RAMIREZ-CARDENAS*

12.30 Lunch break

14.00 **The infringement procedure – workshop**

In this session, participants will have the opportunity to work with different case studies that deal with all phases of the procedure presented during the seminar and to analyse the Court of Justice's decision in each case.

Diego RAMIREZ-CARDENAS

16.00 **Conclusions and Evaluation**

General Information

Location and date

EIPA, European Centre for Judges and Lawyers, Chambre des Métiers building, 4th floor, 2 Circuit de la Foire Internationale, 1347 Luxembourg. Seminar taking place on 20-21 September 2010

Language

English

Fee

€ 675 if registered before 9th of August 2010; € 725 after that date

Project Leader

Juan Diego RAMIREZ-CARDENAS DIAZ, Senior Lecturer, European Centre for Judges and Lawyers, EIPA Luxembourg

Hotel reservations

The European Institute of Public Administration has made a block booking at 5 hotels in Luxembourg:

Hotel Novotel**** at the rate of € 133 (single room- including breakfast and tourist tax), Centre européen, Plateau de Kirchberg. The hotel is located outside the city centre, within walking distance to the conference venue. (Tel.: +352 43 77 68 51; Fax: +352 43 91 95; E-mail: H1930-RE2@accor.com)

Hotel Parc Plaza**** at the rate of € 143 (including breakfast and tourist tax), 5, avenue Marie-Thérèse, city center, 10 minutes from "Centre Aldringen" (Tel.: +352 45 61 41-1; Fax: +352 45 61 41 222; E-mail: reservation@goeres-group.com; www.hpb.lu)

Hotel Parc Bellevue*** at the rate of € 95 (including breakfast and tourist tax), 5, avenue Marie-Thérèse, city center, 10 minutes from "Centre Aldringen" (Tel.: +352 45 61 41-1; Fax: +352 45 61 41 222; E-mail: reservation@goeres-group.com; www.hpb.lu)

Hotel Français*** at the rate of € 105 (single room - including breakfast and tourist tax), Place d'Armes, right in the city centre, 2 minutes from "Centre Aldringen", (Tel.: +352 47 45 34; Fax: +352 46 42 74; Email: hfinfo@pt.lu; www.hotelfrancais.lu)

Hotel NH**** at the rate of €139 (including breakfast and tourist tax), 1 Route de Trèves. Hotel Bus from the NHI to the Kirchberg-just ask for the Jean Monet Building (Stop Jean Monnet). (Tel.: +352 340 571; Fax: +352 340 217 Email: nhluxembourg@nh-hotels.com; www.nh-hotel.com)

Payment is to be made directly and personally to the hotel on checking out. Please note that if you register after the closing date, hotel reservations cannot be guaranteed. Should you wish to make use of this possibility, please phone or fax the reservation department of the hotel at one of the above-mentioned numbers and mention the following reference: EIPA 1053101.

Public Transport

Luxembourg City has two main bus stations, one in the city centre called "Centre Aldringen" and one next to the railway station called "Air Terminus". All buses, wherever they go, are passing through these two stations. Bus no 18, with departure every ten minutes, is going direction Kirchberg, one parallel street from Hotel Novotel, which is at 10 min bus drive from EIPA.

Meals

The lunches will be served at the Amarine restaurant (5 min walk from EIPA) and the reception will take place at EIPA's premises. Should you require a special menu (e.g. vegetarian, diabetic), please inform the Programme Organiser so that this can be arranged.

Participation

The fee applicable to each activity is clearly indicated on the registration form. Unless stated differently on the registration form, the fee includes participation in the activity, lunches and beverages during the activity, documentation and participation in the reception/cocktail. Travel and accommodation costs are at the expense of the participant or his/her administration. Pre-payment of the fee is a condition for participation in an activity. Prior to the activity each participant will receive an invoice which can be paid by bank transfer or by credit card.

Registration

You may register through our website www.eipa.eu using the online registration form or by faxing or mailing the attached registration form duly completed as soon as possible to Ms Yuna LONG, Programme Organiser, European Institute of Public Administration, Circuit de la Foire Internationale, 2 - LU-1347 Luxembourg; Tel.: +352 426 230-205; Fax: +352 426 237; E-mail: y.long@eipa.eu. Your name and address will be part of EIPA's database for our mailing purpose only. If you do not want to be included in our mailing database, please tick the box in the registration form.

Confirmation

Confirmation of registration will be forwarded to participants on receipt of the completed registration form.

Payment

Prior payment is a condition for participation. Please indicate the method of payment on the registration form. In any case, the participant or his/her administration will receive an invoice for the payment of the registration fee.

Cancellation policy

EIPA reserves the right to cancel the seminar up to 2 weeks before the seminar starting date. In that case, registration fees received will be fully reimbursed. EIPA accepts no responsibility for any costs incurred (travel, accommodation, etc...). For administrative reasons, a fee of € 150 will be charged for cancellations received after 06th of September 2010 unless another participant is designated.

The mention of a speaker's name in the programme does not commit EIPA. In the event that an announced speaker does not appear, EIPA will do its utmost to find a suitable replacement. For EIPA's cancellation policy, please visit our website www.eipa.eu (legal notice).

Registration Form

The Infringement Procedure Under Article 258 TFEU - A Practical Overview Luxembourg, 20-21 September 2010

Surname: Title: M/F
First name:
Current position:
Organisation:
Department:
Work address:
Postal code & town: Country:
Tel. no: Fax no:
E-mail address:

Payment -1053101

The participation fee includes participation in the seminar, documentation, 2 lunches, **€ 725**
1 reception/cocktail party and beverages.

Early registration and payment made before the 09th of August 2010 **€ 675**

10 % special discount for civil servants (Please check first the conditions at www.eipa.eu – FAQ – special discounts)

Method of payment

Bank transfer

The participants or their administration will receive an invoice for the payment of the registration fee.

Invoice address (if different from the abovementioned address):

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E-mail:

Credit card

American Express Card Eurocard/Mastercard Visa Card

Card no.: Expiry date: /

Name Card holder: (in case this differs from above)

Address Card holder: (in case this differs from above)

Postal code: Country: (in case this differs from above)

Card Validation Code: (the last three digits on the BACK of your card)

Note: Pre-payment is a condition for participation. For administrative reasons, a fee of €150 will be charged for cancellations received after 18th June 2010 unless another participant is designated.

Meals

Lunch day 1: will attend will not attend Lunch day 2: will attend will not attend

Cocktail day: will attend will not attend

Vegetarian: yes no Fish allowed: yes no Other dietary requirements:

As the number of places is limited, please return the completed registration form as soon as possible to:

Ms Yuna Long, European Centre for Judges and Lawyers, European Institute of Public Administration,

Luxembourg, Circuit de la Foire Internationale, 2, LU-1347 LUXEMBOURG

Tel.: +352 426 230 205, Fax: +352 426 237, E-mail: y.long@eipa.eu



Your name and address will be part of EIPA's database for our mailing purpose only.
Please tick if you do not want to be included in our mailing database.