



Business Information
In A Global Context

Bringing and Defending Litigation Against EU Institutions

**Practical techniques and strategies
to help successfully litigate before the
European Courts**



What EU Judges
Really Expect From You

1st & 2nd March 2012 | Le Châtelain Boutique Hotel, Brussels, Belgium

Learn from the best, including:

Dr. Hanns-Peter Nehl
Legal Secretary in the Chambers of Judge
Azizi in the European General Court

Jean-Francois Bellis
Founding Partner at Vael Bael & Bellis

Dr. Georg Berrisch
Partner, Covington & Burling LLP

Professor Takis Tidimas
Member of Matrix Chambers and leading
author on EU Law

Antonio Creus
Partner, Bird & Bird LLP

Onno Brouwer
Partner, Freshfields Bruckhaus Deringer LLP

Dr Werner Berg
Partner, Crowell and Moring LLP

William Robinson
Partner, Freshfields Bruckhaus Deringer LLP

Paolo Palmigiano
Head of Competition, Lloyds Banking Group

Vincenzo Salvatore
Head of Legal Service, European Medical
Agency

Widney Brown
Senior Director of International Law
and Policy, International Secretariat,
Amnesty International

Stefano Fratta
Director Competition and Regulatory Affairs
for Czech Republic & Slovakia, Telefonica O2
Czech Republic

Bapsy Dastur
General Counsel, Head - Legal & Integrity
IMA, ABB

Jean-Claude Najar
General Counsel France, Senior Counsel &
Chief Compliance Officer EMEA, GE (France)

**This intensive and practical two day training course will give you the
skillset and legal grounding needed to successfully bring and defend
litigation against EU institutions, including:**

- How you can ensure your client fulfils the requirements on admissibility
- Managing your case while meeting the standard of review by the European Courts
- Steps you must consider when your client is an intervener in a case
- The impact of amendments to the procedural rules on your client
- How you can best utilise fundamental rights and general principles of EU law
- Framing your case to get the best remedy for your client
- Significant cases on access to documents and how you can protect information from future litigants
- Making the most of the preliminary ruling procedure
- Advanced techniques to write persuasive written pleadings
- Strategies to make the most of the oral hearing
- Effectively liaising with experts and how you can use expert evidence

Keynote Panel – ‘What Judges Really Want’ featuring both current and former judges, including:

Judge Nicholas Forwood from the European General Court

Judge Konrad Schiemann from the Court of Justice of the European Union

Sir David Edward QC, Blackstone Chambers and former judge of the Court
of Justice of the European Union

Sir Christopher Bellamy QC, Senior Consultant, Linklaters LLP and former
judge of the Court of First Instance

Bo Vesterdorf, Consultant, Herbert Smith LLP and former president
of the Court of First Instance

Hands-on, Practical and Interactive Masterclass:
Successfully Challenging REACH Decisions
on Wednesday February 29, 2012

– see inside for full details



To register call +44 (0) 20 7878 6888 or register online at www.C5-Online.com/eulitigation

The essential toolkit for litigation against the EU

Writing persuasive written pleadings and maximising the time provided in the oral hearing is an art. Although the procedural rules stipulate the requirements to be followed and there are some guidelines on the websites of the European Courts, there is very little in the way of manuals or other literature to guide you. Even for those of you who have been in private practice for many years, litigation before the European Courts can be a real challenge as it is so different from litigation before national courts. Fortunately, these skills can be learnt which is why **C5** have gathered together a spectacular faculty of current and former judges and experienced practitioners to give you inside tips and techniques. This intensive two day course is a mixture of legal grounding and practical, interactive exercises. This programme is specially designed to help you gain confidence when litigating before the European Courts and increase your chances of success.

Working with experienced judges and leading practitioners you will:

- Get a comprehensive breakdown of the procedural rules
- Find out how the amendments to the procedural rules will affect your clients
- Learn how to use fundamental rights and general principles of EU law to your advantage
- Get an update on the case law relating to access to documents so that you can protect vital information
- Pick up proven techniques for writing persuasive written pleadings
- Practice how you can make the most of the time allocated to you in the oral hearing
- Hear directly from judges about what they expect from you

There will be plenty of time for you to interact with speakers, including class discussion and practical hands on exercises. Take advantage of special networking break out sessions designed for you to meet others.

Practical breakfast workshop: An overview of the entire claims process before the European Courts

This interactive workshop will provide you with a detailed overview of the entire claims process before the European Courts. You will develop your techniques and discover new strategies on:

- Appealing a Commission decision to the European General Court
- Planning your appeal to the European General Court
- The differences when appealing to the Court of Justice of the European Union
- Effective tips when requesting s.267 references to a National Court
- What to do when an action is withdrawn

You will also receive a comprehensive set of written materials prepared by the speakers specifically for the conference.

You can register by calling **+44 (0) 20 7878 6888**, by emailing **registrations@C5-Online.com**, by faxing your registration form to **+44 (0) 20 7878 6885** or by registering online at **www.C5-Online.com/eulitigation**

WHO SHOULD ATTEND

- Private Practice Lawyers specialising in areas including, but not limited to:
 - EU Law
 - Competition, Regulation and Trade
 - State Aid
 - Intellectual Property
 - Environmental Law
- In House Counsel – discover what questions you should ask your Outside Counsel

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For more information about this program or our global portfolio, please contact: **Dan Capel** on **+44 (0)20 7878 6870** or email **d.capel@C5-Online.com**

Kristina Nordlander
Partner, Sidley Austin LLP

Prof Lucas Bergkamp
Partner, Hunton & Williams LLP

Candido Garcia Molyneux
Of Counsel, Covington & Burling LLP

- How to get your case heard
- Standards of judicial review: how to overcome the "manifest error" test
- How to appeal before the ECHA Board of Appeal

- Tips on how to write persuasive written pleadings
- Successful strategies to make the most of the oral hearing
- Effective techniques you can use when presenting before the bench of judges
- How to overcome perceived shortcomings of the litigation environment
- Access to documents - how to protect information from future litigants
- Guide to the preliminary ruling procedure
- How to challenge the ECHA via non-litigious methods

THURSDAY 1ST MARCH 2012

8.15 **Registration and Networking**

8.45 **Opening Remarks from the Chair**

Dr. Georg Berrisch
Partner, Covington & Burling LLP

9.00 **Amendments to the Procedural Rules: What is New and How Will the Changes Affect You?**

Pascal Cardonnel
Legal Secretary
Court of Justice of the European Union

Onno Brouwer
Partner, Freshfields Bruckhaus Deringer LLP

- What are the proposals?
- How are they expected to change the court procedure?
- How can you prepare and manage the impact?
- The rationale behind the proposals
- Which proposals are the most contentious?
- To what extent will this make it more difficult to bring appeals?

10:00 **How to Frame Your Case to Get the Best Remedy for Your Client**

William Robinson
Partner, Freshfields Bruckhaus Deringer LLP

Thomas Graf
Partner, Cleary Gottlieb Steen & Hamilton LLP

- Preliminary proceedings
- Direct actions
- Tips on securing interim relief:
 - why is it so difficult to secure interim relief?
 - what are the standards for getting interim measures?
 - how to seek interim relief
 - how to frame your case correctly
 - how to demonstrate urgency
- Damages
 - under what legal conditions are you entitled to damages?
 - tips on framing your case to secure damages
- Annulments
 - when do the courts annul decisions?
 - other important points to consider on consequences of judgements
- How to secure an accelerated procedure
 - when do you qualify for an expedited procedure?
 - how should you draft your pleading to ensure the procedure is expedited?
- Appeal before the Court of Justice

11:00 **Networking Session**

11:15 **How to Ensure Your Client Fulfils the Requirements on Admissibility in Direct Actions**

Dr. Hanns Peter Nehl
Legal Secretary, Chambers of Judge Azizi
European General Court

Vincenzo Salvatore
Head of Legal Service, European Medical Agency

James Killick
Partner, White & Case LLP

Even though the rules on admissibility have been changed by the Lisbon Treaty, the new rules have not yet been tested in the European Courts and they are still proving to be confusing for practitioners. Hear about the latest case law relating to admissibility, the changes made by the Lisbon Treaty and where we are now. Find out how the changes affect you and your clients.

- Who can bring actions before EU courts?
- When and what can you challenge?
 - latest case law on admissibility and important cases including:
 - Case T-177/01 Jégo-Quéré & Cie / Commission and Case C-263/02 P Commission / Jégo-Quéré
 - Case T-173/98 Union de Pequenos Agricultores / Council and Case C-50/00 P Union de Pequenos Agricultores / Council
 - substantive issues relating to inadmissibility
 - changes made by the Lisbon Treaty
 - what are the rules on standing now and how do they affect you?
 - specific issues relating to trade associations to be aware of
 - particular concerns with different causes of action
 - what kind of acts can you challenge?
- Who can challenge EU legislation?
- Tips and Hints concerning litigation against an EU agency

12.15 **Standard of Review by the General Court: How to Maximise Your Chances of Getting a Proper Review**

Dr. Georg M. Berrisch
Partner, Covington & Burling LLP

Jean-Francois Bellis
Partner, Van Bael Bellis

- Scope of the review and margins of appreciation: what is it that you can get reviewed?
 - how does this differ between the General Court and the Court of Justice of the European Union?
 - what are the standards in claims for damages against the Institutions?
- Manifest error doctrine: how much of a review do you really get?
 - to what extent does the General Court review the facts/evidence?
 - examination of some cases and the factors the court has been willing to look at

- the role and scrutiny of communications and guidelines (soft law)
- An analysis of significant cases including:
 - *T-187/98 and C-472/00 P Fresh Marine/Commission*
 - *T-101/05 and T-111/05 BASF AG and UCB SA/Commission*
 - *Cases T-5/02, Tetra Laval / Commission and C-12/03 P, Commission / Tetra Laval*
- Calling witnesses

1.15 Networking Lunch

2.15 Steps You Should Consider if Your Client is an Intervener in a Case

Paolo Palmigiano
Head of Competition, Lloyds Banking Group

Widney Brown
Senior Director of International Law and Policy,
International Secretariat, Amnesty International

- When are third parties permitted to intervene in a case?
- What is the status of third party interveners?
- What kind of rights are you given when you are admitted as an intervener?
- What steps to take when advising your client to intervene in a case

3:00 Effective Methods of Utilising Fundamental Rights and General Principles of EU Law

Professor Takis Tridimas
Member of Matrix Chambers and Professor
at Queen Mary University, London

- What are the general principles?
- How do they affect the procedure before the administrative bodies and the courts?
 - the principles of sound administration and equal treatment
 - *T-410/03, Hoechst/Commission and T-279/02 Degussa/Commission*
- How to ensure you use the general principles correctly when litigating before the EU courts
- In which causes of action are fundamental rights the most important?
- If the EU joins the European Convention on Human Rights what are the implications for you and your clients?
 - the impact on the relationship between the Court of Justice and the ECHR: how will this affect you
 - to what extent will the Court of Justice follow the ECHR case law?
 - *ECHR, Bosphorus vs Ireland, App. Nr. 45036/98 and Cooperatieve Producentenorganisatie van de Nederlandse Kokkelvisserij App. Nr. 13645/05*

3:45 Networking Session

4:00 Who Can Get What: Differences in Rights of Access for Claimants, Interveners and Third Parties

Patrick Boylan
Partner, Simmons and Simmons LLP

Dr Bart Driessen
Legal Advisor, Legal Service, Council of the European Union

- Update on recent and important case law: lessons to be learned
 - *C-139/07 P Commission / Technische Glaswerke Ilmenau*
 - *C-506/08 P Sweden / MyTravel and Commission*
 - *T-237/05 Editions Jacob / Commission (under appeal)*
 - *T-111/07 Agrofert Holding / Commission (under appeal)*
- Relationship between the Access to Document Regulation 1049/2001 and procedural rules
- Relationship between public access and access to the file in cartels

- What confidential information can you protect?
- What information can future litigants obtain from you?

5:00 How to Use the Preliminary Ruling Procedure Effectively

Pascal Cardonnel
Legal Secretary, Court of Justice of the European Union

- Who can vs. who must make a referral?
- What questions are permissible?
 - how to frame and draft them
- How to persuade a national court to submit questions
- What happens before and after a preliminary ruling?
- How does the cooperation between the national court and the Court of Justice work?
- An examination of recent referrals:
 - what decisions were made?
 - what timings need to be taken into consideration?
 - lessons to be learned and tips for success
- How to use this procedure to appeal new EU legislation

5:45 Conference Adjourns

FRIDAY 2ND MARCH 2012

8:15 Registration and Networking

9:00 Chair's Opening Remarks

Antonio Creus
Partner, Bird & Bird LLP

9:15 The Life Cycle of a Case Before the GC and the CJEU

Clive Thorne
Partner, Reynolds Porter Chamberlain LLP

Jacques Derenne
Partner, Hogan Lovells

- Understanding the true scope of judicial review before the General Court and the Court of Justice
 - differences between application for annulment, limited instances where the Court has unlimited jurisdiction and appeal to the Court of Justice under Article 256 TFEU
- Case planning
 - key stages of a case
 - timings to take into consideration
 - hands-on time limit calculation exercise: lessons from the case law on Treaty rules and rules on procedure (lodging an application, written procedure, oral hearing, extensions, various time limits)
- Appeals under Article 256 TFEU
- Preliminary references under Article 267 TFEU

Practical and Hands-on

10:00 Best Practices for Writing Persuasive Written Pleadings

Dr. Werner Berg
Rechtsanwalt/Attorney-at-law, Crowell & Moring

Eliza Petrizi
Partner, Holman Fenwick Willan LLP

- Common mistakes made
- Practical tips on drafting and framing pleadings and arguments:
 - characteristics of a persuasive pleading
 - how to structure your pleadings
 - formats that work and don't work
 - effective use of headings and sub-headings
 - polishing your writing style: tips for writing

- with clarity and concision
- things you should never leave out
- how to decide which key points to focus on
- factual vs. legal arguments: whether and how you should make a factual argument and what proportion you should devote to facts
- The practicalities of putting together an application
- Timings to consider
- Costs to be factored in - documents required:
 - what documents can you annex?
 - you can insert web links to documents?
- What are the loopholes that you can use to your advantage?
- What can you expect from the court?
- When and how you can make a short form application to expedite a case
- Things you must consider for different procedures e.g. preliminary rulings, direct claims, damages claims

11.00 Networking Session

11.15 The Oral Hearing: Making the Most of Your 30 Minutes

Josh Holmes

Barrister - EU, Competition and Telecommunications Law, Monckton Chambers

Antonio Creus

Partner, Bird & Bird LLP

Christopher Thomas

Partner, Hogan Lovells LLP

- How the hearing works
- How much time will you get, and asking for more
- Who should plead and who can answer questions
- What to say in your opening presentation
- Preparing for questions from the judges
- Practical tips for dealing with a multilingual Court
- Meeting the needs of the interpreters
- Dealing with questions
- Production of documents
- Tips for the closing statement

12.15 How to Comply With the Test of Proportionality

Clive Thorne

Partner, Reynolds Porter Chamberlain LLP

- The test: is the measure appropriate, necessary and reasonable?
 - Is the measure appropriate in order to achieve the intended objective?
 - Are there any less severe means of achieving the objective?
 - Can the addressee be reasonably expected to accept the measure in question?
- The margin of appreciation
 - Differentiation between the limbs of the test
 - Which factors influence the margin of appreciation?
- Evidence
 - Factors determining the quality of evidence to be provided
 - How to get the evidence?
 - How to present the evidence?
- Burden of proof
- What is proportional and what is not proportional?

1.00 Networking Lunch

2.00 Tips from the Bench: What Judges Really Want

Judge Nicholas Forwood
European General Court

Keynote Judges' Panel

Judge Konrad Schiemann

Court of Justice of the European Union

Sir David Edward QC

Sir Christopher Bellamy QC

Bo Vesterdorf

- How to make your presentation more persuasive
- What are the views of judges on the proposed amendments to the procedural rules?
- Why are judges so reluctant to call witnesses?

3.30 Networking Session

3.45 In House Counsel Talk About What They Want From Their External Counsel When Sending Cases To The European Courts

Jean-Claude Najar

General Counsel France, Senior Counsel & Chief Compliance Officer EMEA, GE (France)

Bapsy Dastur

General Counsel, Head - Legal & Integrity IMA, ABB

Dr. Filip De Corte

Chief IP Counsel Europe, Cargill

Stefano Fratta

Director Competition and Regulatory Affairs for Czech Republic & Slovakia, Telefonica O2 Czech Republic

Steffen Schaeffner

Rechtsanwalt and Associate Corporate Trademark Counsel, Merck

- What is the client actually seeking from litigation - what would "success" look like?
- Extent of availability of business, engineering or other personnel from within the client, to assist with preparation of the case
- Client's willingness or otherwise to involve specialists such as economists
- Whether the client prefers a "focused challenge" or to "leave no stone unturned"
- Mutual understanding as to the:
 - expected cost of litigation
 - implications for how the case will be conducted
 - developments that may increase/decrease costs

4.45 The Role of Experts and Expert Evidence and How to Use it

Martin Howe QC

8 New Square

Dr Cristiana Caffarra

Vice President and Head of the European Competition Practice, Charles River Associates

- How you can make the expert's evidence clear in layman's terms
- What is the experience of experts and economists? How can you learn from this?
- What is the role of the expert? when are experts likely to be involved?
- The art of finding the right expert
- Tips to use when instructing the expert and defining the scope of expert evidence
- Problems of bias or undue partiality
- Oral presentation and testing of expert evidence
- Disasters you need to avoid
- What is the status of expert reports? how can you use the reports?
- Details of the European Commission communication on the use of experts

5.15 Conference Ends

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Why you should attend:

- Meet judges
- Tips on written pleadings
- Maximise time at hearings
- Network

1st & 2nd March 2012 | Le Châtelain Boutique Hotel Brussels, Belgium

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ADMINISTRATIVE DETAILS

Date: 1st & 2nd March 2012

Time: 08:00 - 17:00

Venue: Le Châtelain Boutique Hotel

Address: Rue du Châtelain 17, 1000, Brussels, Belgium

Telephone: +32 (0)2 646 0055

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The documentation provided at the event will be available on CD only. If you are not able to attend, you can purchase a CD of the presentations provided to delegates on the day of the event. Please send us this completed booking form together with payment of €595 per copy requested. For further information please call +44 (0) 207 878 6888 or email enquiries@C5-Online.com.

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11 hours (conference only) plus 7 hours for the master class towards Continuing Professional Developments hours (Solicitors Regulation Authority). Please contact C5 for further information on claiming your CPD points.

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