

# EStAL Seminar 2017

## Public Authorities as Economic Actor

20–22 April 2017 | Feldafing, Lake Starnberg (near Munich), Germany

Discuss and exchange  
with leading State aid  
experts on the concept of  
economic activity!

### EXPERT PANEL:



**Leo FLYNN (Chair)**  
*Legal Service,  
European Commission,  
Brussels*



**Koen VAN DE CASTEELE**  
*DG Competition,  
European Commission,  
Brussels*



**Péter STAVICZKY**  
*Hungarian Permanent  
Representation,  
Brussels*



**Vincent VEROUDEN**  
*Director at the Brussels office  
of E.C.A Economics,  
Brussels*



**Michael HONORÉ**  
*Partner, Bech-Bruun Law Firm,  
Copenhagen*

- Public Authorities between Economic and Non-Economic Activities
- Practical Challenges: In-house Separation, State Guarantees and Recovery
- How to Apply the Market Economy Operator Test?
- Sectors Close to the Boundary: Utilities, Infrastructure, Health and Social Security
- Problem-Solving Session: Practical Cases & Final Discussion Round

# STRUCTURE & PARTICIPANTS

## OVERVIEW

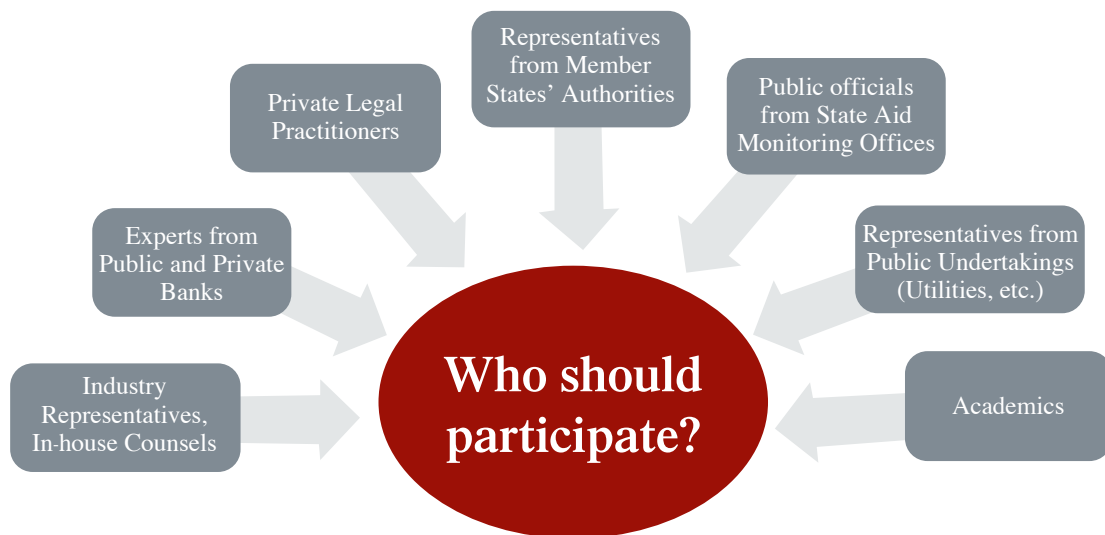
With its recent published Notice on the Notion of Aid the Commission aims to contribute to a consistent application of the concept of aid and, among others, outlines the main principles of the notion of undertaking and the concept of economic activity. The practice however often reveals how difficult it can be to draw the dividing line between economic and non-economic activities, especially with regard to public authorities that are active in commercial markets.

This intensive 2,5 days seminar will discuss different facets of the concept of economic activity, taking into consideration latest rulings of the courts and Commission decisions as well as the application of the Market Economy Operator Principle (MEOP). The concept of economic activity will be discussed, among others, in relation to crucial areas such as infrastructure funding, public utilities and networks as well as Services of General Economic Interest (SGEI).



## PARTICIPANTS

The seminar will bring together State aid experts from European and national institutions, industry, legal practice and academia. As such, the seminar is targeted to:



## OBJECTIVES



The EStAL seminar offers a unique experience to thoroughly examine State aid issues in an intensive, small-group atmosphere allowing for in-depth interaction among the participating experts. The diverse professional background of the faculty and the small circle of participants sharing a high level of expertise and experience will guarantee a lively and insightful debate.

## METHODOLOGY



During the two and a half-day programme you will have ample room to profoundly look into the diverse aspects of the issue thanks to a high variety of dense and topical presentations, case studies, brainstorming rounds and in-depth discussion. As the seminar will be held under the *Chatham House Rule*, your questions will be discussed in full confidentiality.

# PROGRAMME

20–22 APRIL 2017

## FACULTY

All speakers intent to stay along for the whole seminar and participate in the sessions, discussions and social activities.



**Leo FLYNN (Chair)**

*Legal Adviser, Legal Service, European Commission, Brussels*



**Koen VAN DE CASTEELE**

*Head of Unit, State aid Policy and Case support, DG Competition, European Commission, Brussels*



**Péter STAVICZKY**

*Attaché for State Aid, Hungarian Permanent Representation, Brussels*



**Vincent VEROUDEN**

*Director at the Brussels office of E.CA Economics, Brussels*



**MICHAEL HONORÉ**

*Partner, Bech-Bruun Law Firm, Copenhagen*

## BENEFITS OF ATTENDING

- ✓ Receive first-hand information from experts of the European Commission
- ✓ Discuss the concept of economic activity and its practical implications
- ✓ Participate in small group exercises, various case studies and discuss your individual cases and questions in full confidentiality
- ✓ Enjoy the great networking opportunities and (informal) exchange with State aid experts at the beautiful Lake Starnberg.

## Thursday, 20 April 2017

8.30 – ca. 22:30 (incl. Coffee Breaks, Lunch & Evening Excursion)

### Morning Session:

#### Public Authorities between Economic and Non-Economic Activities

- Defining economic activity, undertaking and market: Commission Notice on the Notion of Aid
- Relevant case law from Luxembourg pertaining to economic activities
- Where is the boundary between economic and non-economic activity?
- What are the relevant elements in determining the public authorities' engagement in an economic activity?

#### Speakers:

Leo FLYNN

*Legal Service, European Commission, Brussels*

Koen VAN DE CASTEELE

*DG Competition, European Commission, Brussels*

### Afternoon Session:

#### Practical Challenges of Proximity to the State: In-house Separation, State Guarantees and Recovery

- Advantage by proximity to the State
- Incorporation into the State administration
- In-house separation and separation of accounts: How to comply with State aid?
- Implicit State guarantees: Does the 'commercial leg' of a public authority benefit from *de facto* guarantees?
- How to recover State aid from public authorities engaged in economic activities?
- Privatisation of 'State aid infected' assets: How can the sale be free of State aid?
- How to use spare capacities of public undertakings on the market?

#### Speakers:

Koen VAN DE CASTEELE

*DG Competition, European Commission, Brussels*

Michael HONORÉ

*Bech-Bruun Law Firm, Copenhagen*

**Evening: Excursion with all speakers and participants & Dinner**

## Friday, 21 April 2017

9:00 – 17:30  
(incl. Coffee Breaks & Lunch)

### Morning Session:

#### How to Apply the Market Economy Operator Test?

- Latest case law on the Market Economy Operator (MEO) Principle
- Why and when does the MEO test have to be applied?
- Assessment of existence of aid and how to quantify it
- Which variant of the MEO is to be used?  
- The State as investor or creditor or lender, etc.
- How to apply the MEO test?
- Which factors are relevant/irrelevant when applying the appropriate test?
- Practical considerations in establishing conformity with the MEO principle

#### Speaker: Vincent VEROUDEN

*E.CA Economics, Brussels*

### Afternoon Session:

#### Sectors Close to the Boundary: Utilities, Infrastructure, Health and Social Security

- Public utilities and infrastructure: State aid considerations
- Infrastructure funding: Where to draw the line between economic and non-economic activities? Owner – operator – user
- The 20% rule on infrastructure projects; compliance with the claw-back requirement and the principle of ancillarity
- Natural/legal monopoly of infrastructure
- Funding SGEIs to finance infrastructure, health and social sector
- Limitation between economic services and SGEI in municipalities: How to make the distinction?
- How to determine whether sport and cultural activities are commercial or not?

#### Speaker: Péter STAVICZKY

*Permanent Representation of Hungary to the EU, Brussels*

## Saturday, 22 April 2017

9:00 – 14:00 (incl. Coffee Break & Lunch)

### Morning Session:

#### Practical Case Study & Final Discussion Round

- General wrap-up of the two days' debates and discussion of remaining questions
- Interactive group work based on cases (brought by participants and/or speakers)
- Analysing of your questions and discussion of your individual questions

#### Chair: Leo FLYNN

*Legal Service, European Commission, Brussels*

**Participants are welcome to send us topics and/or individual questions beforehand.**



## NETWORKING & EXCHANGE

The two and a half-day programme (with the option to stay over the weekend) offers ample time for debates and exchange. The coffee and lunch breaks as well as social and leisure activities, provide perfect opportunities for informal exchange and networking. On the evening of the first day, a common excursion with all speakers and participants is organised – do not miss this great networking event!



## REGISTRATION FORM

# EStAL Seminar 2017: Public Authorities as Economic Actor

20–22 April 2017

Organiser: Lexxion Publisher

### VENUE

Golfhotel Kaiserin Elisabeth (Empress «Sissi»)  
Tutzingerstr. 2 | 82340 Feldafing at Lake Starnberg | Germany  
Phone +49 8157 9309-0  
Fax +49 8157 9309-133  
E-Mail: info@kaiserin-elisabeth.de

As the number of places is limited, please register as soon as possible.

### PARTICIPATION FEES

- Regular fee: 2 480 EUR\*
- Reduced fee for EStAL subscribers: 2 380 EUR\*

\* 19% German VAT will be added.

The participation fees include the seminar material, drinks and snacks during the breaks and lunches as well as the evening excursion on 20 April including dinner and drinks.

### CANCELLATION POLICY

Cancellations should be made in writing per post or fax. Please note that the full fee will be charged for cancellations received after 5 April 2017. Nomination of a substitute remains possible. A cancellation arising by reason of too small a number of participants is effected no later than two weeks prior to the conference by the organisers. In this case the participation fee will be refunded. A requirement for reimbursement of travel and accommodation expenses as well as loss of working hours is not possible, unless such costs result from wantonly negligent or deliberate behaviour on the part of the organisers.

Press date: 20 January 2017. Subject to alterations. For further information or online registration please visit [www.lexxion.eu/events](http://www.lexxion.eu/events).



### Please register with:

Lexxion Publisher  
Post: Güntzelstr. 63 | 10717 Berlin, Germany  
Phone: +49 (0)30-81 45 06-27 (Juliana Veit)  
Fax: +49 (0)30-81 45 06-22  
E-mail: [veit@lexxion.de](mailto:veit@lexxion.de)  
Online: [www.lexxion.eu/events](http://www.lexxion.eu/events)

Name

Institution

Department/Position

Address

Postal Code/Country

Phone

Fax

E-mail

EStAL subscription number

VAT Reg. No.

Date, Signature

Promotional Code

### UPCOMING EVENT

+++ Lexxion presents +++ Lexxion presents +++ Lexxion presents +++ Lexxion presents +++ Lexxion presents +++ Lexxion

### 15<sup>th</sup> EStALI Experts' Forum | Brussels

- ✓ Discuss latest developments in EU State aid law
- ✓ Receive first-hand information from the European Commission, EU Courts, Member States, private practice & academia
- ✓ Enjoy great networking with State aid experts from all over Europe



For further information and online registration, please visit [www.lexxion.eu/events](http://www.lexxion.eu/events)