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Trust, Independence, Impartiality and Accountability of Judges and Arbitrators: Safeguarding the Rule of Law Under the EU Charter (TRIAL) Project

Online Transnational Training Workshop “Arbitration and the European Rule of Law”

Call for Participants

Date: 10/11 May, 2021 (two online workshops of half day each)

Time: 12.00 – 17.30, Amsterdam time

Host: The Hague University of Applied Sciences, The Centre of Expertise Global Governance

Training coordinator: Dr. Barbara Warwas

Note: Participation is free of charge, but subject to the selection process described below. Each workshop will be on the same topics and each participant will be allocated to one workshop only, based on the selection criteria below. However, if you have a preference for a specific day, please mention this in your application.

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THE HAGUE
UNIVERSITY OF
APPLIED SCIENCES



Background

Pursuant to Article 2 of the Treaty on the European Union (EU), the rule of law is one of the fundamental values upon which the Union is built. Strong national justice systems ensure the rule of law in the EU through the maintenance of such principles as independence, impartiality, and efficiency. Although arbitrators are not formally part of national justice systems, they increasingly deal with questions of EU fundamental rights and the European rule of law standards, at least in arbitrations that are seated in the EU and/or in which EU law is applied. This is even more the case in the context of the Investment Court System developed for investment-related disputes in the EU.

This training is offered within the framework of the TRIAL project that provides training activities and tools for judges, lawyers, prosecutors, and arbitrators on the European rule of law. The TRIAL project is funded by the European Commission (Horizon 2020, project no. 853832, JUST-JTRA-EJTR-AG-2018). For more information about the project, see [here](#).

The purpose of this training is to brainstorm the salient theoretical and practical issues emerging in the field of the European rule of law and arbitration at national and supranational levels. Those issues include:

- Arbitration and the right to a fair trial under Article 6 of the European Convention of Human Rights (ECHR).
- The standard of independence and impartiality of arbitrators under international and EU law frameworks.
- The accountability of arbitrators and arbitral institutions within the EU.

Arbitration is understood broadly and concerns commercial arbitration, investor-State arbitration, and sports arbitration.

Methodology

You will learn through:

- a half-day long online workshop including group exercises, and
- preparation materials (including e-learning module provided one month prior to the training containing a database with relevant case law).

Who should attend

International arbitrators (or judges acting as international arbitrators), lawyers, in-house counsel of corporations involved in arbitration proceedings seated in the EU and/or in which EU law is applied.

There will be 40 participants in total (20 participants per each workshop). The participation is free of charge. Participants will be provided with certificates of participation.

Preliminary Programme, 10 May 2021

12.00 - 12.15 Participants join the call and test the connection

12.15 - 12.30 Opening and welcome, **Dr. Barbara Warwas**, Lector Multilevel Regulation, Director of the Centre of Expertise on Global Governance, THUAS

12.30 – 13.00 Keynote: **Tony Cole**, Reader in Arbitration and Investment Law, Leicester Law School, *The Changing Role of Arbitrators in the EU*

13.00 – 13.15 Discussion

13.15 – 13.30 Break

13.30 – 15.00 Expert panel “*What is the role of arbitrators in safeguarding the (European) rule of law – emerging trends and puzzles*” moderated by **Dr. Luca Pantaleo**, University of Cagliari

13.30 – 13.50 **Dr. Antoine Duval**, Senior Researcher, Asser Institute, *Right to a Fair Trial in Sports Arbitration*

13.50 – 14.10 **Isabelle Michou**, Partner, Quinn Emanuel Urquhart & Sullivan LLP, *The changing standard of independence and impartiality of arbitrators in the EU*

14.10 – 14.30 **Matthias Kuscher**, Partner, De Brauw Blackstone Westbroek, *Accountability standards for arbitrators*

14.30 – 15.00 Q&A

15.00 – 15.15 Break



15.15 – 17.15 Group exercises (closed sessions) facilitated by the THUAS team

Working group 1: Arbitration and the Right to a Fair Trial
facilitated by Dr. Artemis Malliaropoulou

Working group 2: Independence and Impartiality of Arbitrators
facilitated by Amanda Kemshaw

Working group 3: Standards of Accountability for Arbitrators
facilitated by Dr. Barbara Warwas

17.15 – 17.30 Conclusions of the working groups in the plenary session & closing remarks, Dr. Barbara Warwas

Preliminary Programme, 11 May 2021

12.00 - 12.15 Participants join the call and test the connection

12.15 - 12.30 Opening and welcome, **Dr. Barbara Warwas**, Lector Multilevel Regulation, Director of the Centre of Expertise on Global Governance, THUAS

12.30 – 13.00 Keynote: **Prof. Catherine Rogers**, Full Professor of Law, Bocconi University; Professor of Ethics, Regulation, and the Rule of Law and Co-director of the Institute for Ethics and Regulation, Queen Mary University of London, *Arbitration and the (European) Rule of Law*

13.00 – 13.15 Discussion

13.15 – 13.30 *Break*

13.30 – 15.00 Expert panel “*What is the role of arbitrators in safeguarding the (European) rule of law – emerging trends and puzzles*” moderated by **Amanda Kemshaw, THUAS, former Counsel, De Brauw Blackstone Westbroek**

13.30 – 13.50 **Dr. Paschalis Paschalidis**, Counsel, Gaillard Banifatemi Shelbaya Disputes, former Référéndaire at the Court of Justice of the EU, *Arbitration and the Right to a Fair Trial*

13.50 – 14.10 **Dr. Francesca Mazza**, Secretary General, German Arbitration Institute (DIS), *The standard of independence and impartiality in arbitration*

14.10 – 14.30 **Michael McIlwrath**, former Vice President-Litigation at Baker Hughes Company, *Accountability standards for arbitrators*

14.30 – 15.00 Q&A

15.00 – 15.15 *Break*

15.15 – 17.15 Group exercises (closed session) facilitated by the THUAS team

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What you can expect after the completion of the training

1. You will be able to understand and explain the main legal issues relating to the European rule of law (the training's "core").
2. You will be able to understand and explain the main legal issues relating to the right to a fair trial and arbitration under Article 6 of the ECHR (i.e., compatibility of arbitration with the ECHR, the meaning of the "tribunal established by law" and arbitration, the right to a public hearing and arbitration).
3. You will be able to distinguish between the guarantees to be offered under Article 6 of the ECHR in mandatory and voluntary arbitrations.
4. You will be able to use the knowledge on the guarantees to be offered by mandatory arbitration tribunals under Article 6 ECHR in your legal practice. That means that you will be able to advise your clients on those guarantees (as counsel) or you will be able to observe those guarantees (as arbitrator).
5. You will be able to understand and explain the legal framework and judicial approaches to the civil liability of arbitrators and arbitral institutions in selected Member States.
6. You will be able to evaluate what situations may result in civil liability of arbitrators in selected Member States and advise your clients accordingly.
7. You will be able to understand and explain the main legal issues arising in connection to the independence and impartiality of arbitrators under EU law.
8. You will acquire the ability to relate the knowledge acquired to the cases you are dealing with in your legal practice.
9. You will enhance your ability to evaluate potential conflicts of interest and problems of impartiality (or the lack thereof) in your legal practice.
10. You will be able to create and design new arguments in order to convincingly plead your case where independence and impartiality issues arise.
11. You will become part of a network of legal practitioners and scholars interested in the interplay between European rule of law and arbitration, which could provide support for future questions.

Application materials and the selection process

Applicants are invited to submit the following documents by 5 April 2021 to trial@hhs.nl

1. A full CV in English;
2. A brief (one-page) motivation letter in English explaining the candidate's reasons of applying, how he or she would benefit from and contribute to the project. This letter should not merely restate the candidate's CV.

The allocation of participants for two workshops will be based on the selection criteria below. However, if you have a preference for a specific day, please mention this in your application.

Applicants will be notified about the result of the selection process by **9 April 2021**.

The selection process aims to identify participants who will effectively and substantially contribute to dissemination of project results.

Thus, candidates are expected to have:

1. Excellent communications skills in English.
2. A general knowledge of and the professional experience in the topic of the workshop.
3. Previous experience with legal training or teaching.

The selection will ensure the following criteria:

1. Single participation principle: no participant can take part in more than one workshop within the project. Exceptions are at the discretion of project leaders.
2. Gender balance.
3. Age balance.
4. Geographical representation: geographical distribution shall be taken into account, with the aim of selecting participants who work in different regions within the participating countries.
5. Inter-disciplinary representativity: the selection will ensure, as much as possible, equal representation of different legal professions (for example, arbitrators and legal counsel).

Participants are asked to devote the necessary time to this training workshop. If selected, participants must commit to all sessions of the workshop for which they have been selected. They are also asked to prepare for the workshop by reading the relevant materials that will be sent one month in advance. Participants should also commit to the active participation in the follow-up activities (if any).

Applicants are not required to have participated in similar training programmes before, nor will recent participation in similar training programmes necessarily prevent them from being selected.

Contact person

For more information about the training, feel free to contact Dr. Barbara Warwas at b.a.warwas@hhs.nl.