

**SANCTIONS AND MEASURES IN BANKING AND
CAPITAL MARKETS LAW**

ISSUES OF EU AND NATIONAL LAW

Co-organizers:

**Hellenic Association of European Law
European Association of Banking and Financial Law (AEDBF)***

Friday, 17 October 2008, 16:00-20:30

Events Hall of Nomiki Bibliothiki, 23 Mavromichali str, 10680 Athens.

I. Subject Matter of the Workshop:

1. Sanctions provided by national law in the fields of banking and capital markets law for the safeguarding of EU deriving rules

Special Topics:

- a) Provision of investment services, markets in financial instruments (MiFID), exercise of banking activities (Banking Directives);
- b) Prospectus and Public Offers;
- c) Transparency concerning information about listed companies;
- d) Market Abuse;
- e) Undertakings for Collective Investment in Transferable Securities.

Indicative titles:

- Nature of provided measures / sanctions (criminal, administrative, extent / framework of provided fines etc);
- Form of legislative texts in which the special fines are provided (law, regulatory decisions etc);
- Competency to take measures / impose sanctions;
- Beneficiary of the fine.

2. Supervisory authorities' practice

- a. Procedure and competency to impose sanctions;
- b. Conditions for the imposition of administrative sanctions (i.e. subjective or objective liability?);
- c. Circumstances under which criminal procedures (when provided by law) are initiated (e.g. in which cases a criminal procedure is initiated and by whom);

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d. Criteria for the i) selection amongst different sanctions / measures, cumulatively provided by law; ii) measurement of sanctions. Are these criteria accessible to the market participants and in what form?

e. Publication of imposed sanctions and measures;

f. Statistics (of examined cases, cases as to which sanctions have been imposed or other measures, which measures / sanctions have been imposed, e.g. revocation of licenses etc.), the addressees of sanctions and measures, e.g. investment firms / credit institutions, listed companies, board members of listed companies, other natural or legal persons etc.).

3. Legal protection/legal tools/case law

a. Adjudicated cases;

b. Content of court rulings (e.g. repeals / suspension of sanctions, mitigation etc., criteria / grounds of judgments);

c. Statistics

II. Program of the Workshop

Part A'

Chairperson: *Ms. Athanassia Tsambassi*, Vice-President of the Hellenic Conseil d'État, Chairperson of the Hellenic Association of European Law

1. General Introduction: Mr. Dimitris G. Tsibanoulis, Dr. jur.

Sanctions and measures provided in the national laws of the Members States with regard to EU deriving banking and capital markets law

Sanctions and measures which the Member States were obliged and entitled to impose for the compliance with the rules imposed by the EU law on the provision of financial services in the banking and capital markets sector- General rationale and analysis of the Greek national law.

Special Topics:

a) Investment services provision, markets in financial instruments, exercise of banking activities

EU law: MiFID - 2004/39/EC, Banking Directive - 2006/48/EC;

Greek laws: 3606/2007 and 3601/2007,

b) Prospectus and Public Offers

EU law: 2003/71/EC;

Greek law: 3401/2005,

c) Transparency concerning information about listed companies

EU Law: Directive 2004/109/EC;

Greek law: 3556/2007

d) Market Abuse

EU Law: Directive 2003/6/EC;

Greek law: 3340/2005

e) Undertakings for Collective Investment on Transferable Securities (UCITS)

EU law: Directive 85/611/EC, as applicable;

Greek law: 3283/2004

Presentation of the derivative EU law and the national law implementing the above Directives, measures and sanctions provided in Greek law.

2. Country Reports

- a. France: *Mr. Hubert de Vauplane*, Professor Paris II – Panthéon Assas
- b. Italy: *Mr. Roberto Ferretti*, Lawyer
- c. United Kingdom: *Mr. Colin Jamieson*, Lawyer
- d. Monaco: *Mr. Jean-Marie Canac*, Lawyer
- e. Lithuania: *Mr. Gintautas Posiunas*, Chief Legal Adviser, European Affairs Division, Bank of Lithuania

Part B'

Chairman: *Mr. Hubert de Vauplane*, Professor Paris II – Panthéon Assas, Member of the AEDBF Board of Directors*

1. Comparative overview of sanctions and measures provided in the Member States: *Ms. Mina Filippa*, Legal Counsel CESR (Committee of European Securities Regulators)

2. The EU Financial Services Law and the Challenge of the Global Financial Crisis: Is the Existing Regulatory and Sanctions Framework Adequate? – *Mr. Emiliios Avgouleas*, Professor University of Manchester

3. General Conclusions – Discussion

Co-ordinator-Discussant: *Mr. Hubert de Vauplane*, participation of the speakers and the audience

- Problems faced or raised by the market and the market participants;
- Legal certainty / transparency as to the interpretation of the rules in force and the applied practices, the procedures and the criteria for the imposition of sanctions;
- Effectiveness of sanctions as to the deterrence of violations;
- Legal protection during the stage prior to the imposition of violations - right to be heard.
- Legal tools;
- Level playing field / competition of legal systems.

* www.aedbf.eu